

**A Resource Manual for the  
Development and Evaluation  
of Special Programs**

**VOLUME I-B:**

**Florida Statutes  
and State Board of  
Education Rules  
Excerpts for Special  
Programs**

Florida Department of Education  
Bureau of Exceptional Education and Student Services

**Revised 2009**



## **Foreword**

Through the provision of state funds by legislative action, the people of Florida have indicated their desire to meet the specialized educational needs of students. The Florida Department of Education is ready to cooperate with parents, teachers, school administrators, other agencies, and interested citizens in an effort to establish and improve instructional programs as the local community may need.

On January 21, 2009, the State Board of Education adopted Rule 6A-6.03018, Florida Administrative Code (F.A.C.), Exceptional Student Education Eligibility for Students with Specific Learning Disabilities (SLD). This rule becomes effective March 23, 2009. Although not available when this edition went to print, for your convenience a copy of the rule appears in the Appendix on page 321.

If additional information is needed, please contact your local school board office or the Bureau of Exceptional Education and Student Services, Florida Department of Education, Tallahassee, Florida 32399-0400.



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**Section A:**

**Florida Statutes  
Pertaining  
to  
Special Programs**



# Florida Statutes Pertaining to Special Programs

## Chapter 1000

### K–20 General Provisions

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#### **1000.03 Function, mission, and goals of the Florida K-20 education system.—**

(1) Florida’s K-20 education system shall be a decentralized system without excess layers of bureaucracy. Florida’s K-20 education system shall maintain a systemwide technology plan based on a common set of data definitions.

(2)(a) The Legislature shall establish education policy, enact education laws, and appropriate and allocate education resources.

(b) With the exception of matters relating to the State University System, the State Board of Education shall oversee the enforcement of all laws and rules, and the timely provision of direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results.

(c) The Board of Governors shall oversee the enforcement of all state university laws and rules and regulations and the timely provision of direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results.

(3) Public education is a cooperative function of the state and local educational authorities. The state retains responsibility for establishing a system of public education through laws, standards, and rules to assure efficient operation of a K-20 system of public education and adequate educational opportunities for all individuals. Local educational authorities have a duty to fully and faithfully comply with state laws, standards, and rules and to efficiently use the resources available to them to assist the state in allowing adequate educational opportunities.

(4) The mission of Florida’s K-20 education system is to allow its students to increase their proficiency by allowing them the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities, in accordance with the

mission statement and accountability requirements of s. 1008.31.

(5) The priorities of Florida’s K-20 education system include:

(a) Learning and completion at all levels, including increased high school graduation rate and readiness for postsecondary education without remediation.—All students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.

(b) Student performance.—Students demonstrate that they meet the expected academic standards consistently at all levels of their education.

(c) Alignment of standards and resources.—Academic standards for every level of the K-20 education system are aligned, and education financial resources are aligned with student performance expectations at each level of the K-20 education system.

(d) Educational leadership.—The quality of educational leadership at all levels of K-20 education is improved.

(e) Workforce education.—Workforce education is appropriately aligned with the skills required by the new global economy.

(f) Parental, student, family, educational institution, and community involvement.—Parents, students, families, educational institutions, and communities are collaborative partners in education, and each plays an important role in the success of individual students. Therefore, the State of Florida cannot be the guarantor of each individual student’s success. The goals of Florida’s K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.

History.—s. 5, ch. 2002-387; s. 4, ch. 2006-74; s. 65, ch. 2007-217.

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#### **1000.05 Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required.—**

(1) This section may be cited as the “Florida Educational Equity Act.”

(2)(a) Discrimination on the basis of race, ethnicity, national origin, gender, disability, or marital status against a student or an employee in the state system of public K-20 education is prohibited. No person in this state shall, on the basis of race, ethnicity, national origin, gender, disability, or marital status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination un-

der any public K-20 education program or activity, or in any employment conditions or practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.

(b) The criteria for admission to a program or course shall not have the effect of restricting access by persons of a particular race, ethnicity, national origin, gender, disability, or marital status.

(c) All public K-20 education classes shall be available to all students without regard to race, ethnicity, national origin, gender, disability, or marital status; however, this is not intended to eliminate the provision of programs designed to meet the needs

of students with limited proficiency in English, gifted students, or students with disabilities or programs tailored to students with specialized talents or skills.

(d) Students may be separated by gender for a single-gender program as provided under s. 1002.311, for any portion of a class that deals with human reproduction, or during participation in bodily contact sports. For the purpose of this section, bodily contact sports include wrestling, boxing, rugby, ice hockey, football, basketball, and other sports in which the purpose or major activity involves bodily contact.

(e) Guidance services, counseling services, and financial assistance services in the state public K-20 education system shall be available to students equally. Guidance and counseling services, materials, and promotional events shall stress access to academic and career opportunities for students without regard to race, ethnicity, national origin, gender, disability, or marital status.

(3)(a) No person shall, on the basis of gender, be excluded from participating in, be denied the benefits of, or be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a public K-20 educational institution; and no public K-20 educational institution shall provide athletics separately on such basis.

(b) Notwithstanding the requirements of paragraph (a), a public K-20 educational institution may operate or sponsor separate teams for members of each gender if the selection for such teams is based upon competitive skill or the activity involved is a bodily contact sport. However, when a public K-20 educational institution operates or sponsors a team in a particular sport for members of one gender but does not operate or sponsor such a team for members of the other gender, and athletic opportunities for that gender have previously been limited, members of the excluded gender must be allowed to try out for the team offered.

(c) This subsection does not prohibit the grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to gender. However, when use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one gender, the educational institution shall use appropriate standards which do not have such effect.

(d) A public K-20 educational institution which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both genders.

1. The Board of Governors shall determine whether equal opportunities are available at state universities.

2. The Commissioner of Education shall determine whether equal opportunities are available in

school districts and community colleges. In determining whether equal opportunities are available in school districts and community colleges, the Commissioner of Education shall consider, among other factors:

a. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both genders.

b. The provision of equipment and supplies.

c. Scheduling of games and practice times

d. Travel and per diem allowances.

e. Opportunities to receive coaching and academic tutoring.

f. Assignment and compensation of coaches and tutors.

g. Provision of locker room, practice, and competitive facilities.

h. Provision of medical and training facilities and services.

i. Provision of housing and dining facilities and services.

j. Publicity.

Unequal aggregate expenditures for members of each gender or unequal expenditures for male and female teams if a public school or community college operates or sponsors separate teams do not constitute nonimplementation of this subsection, but the Commissioner of Education shall consider the failure to provide necessary funds for teams for one gender in assessing equality of opportunity for members of each gender.

(e) A public school or community college may provide separate toilet, locker room, and shower facilities on the basis of gender, but such facilities shall be comparable to such facilities provided for students of the other gender.

(4) Public schools and community colleges shall develop and implement methods and strategies to increase the participation of students of a particular race, ethnicity, national origin, gender, disability, or marital status in programs and courses in which students of that particular race, ethnicity, national origin, gender, disability, or marital status have been traditionally underrepresented, including, but not limited to, mathematics, science, computer technology, electronics, communications technology, engineering, and career education.

(5)(a) The State Board of Education shall adopt rules to implement this section as it relates to school districts and community colleges.

(b) The Board of Governors shall adopt rules to implement this section as it relates to state universities.

(6) The functions of the Office of Equal Educational Opportunity of the Department of Education shall include, but are not limited to:

(a) Requiring all district school boards and community college boards of trustees to develop and submit plans for the implementation of this section to the Department of Education.

(b) Conducting periodic reviews of school districts and community colleges to determine compliance with this section and, after a finding that a school district or a community college is not in compliance with this section, notifying the entity of the steps that it must take to attain compliance and performing followup monitoring.

(c) Providing technical assistance, including assisting school districts or community colleges in identifying unlawful discrimination and instructing them in remedies for correction and prevention of such discrimination and performing followup monitoring.

(d) Conducting studies of the effectiveness of methods and strategies designed to increase the participation of students in programs and courses in which students of a particular race, ethnicity, national origin, gender, disability, or marital status have been traditionally underrepresented and monitoring the success of students in such programs or courses, including performing followup monitoring.

(e) Requiring all district school boards and community college boards of trustees to submit data and information necessary to determine compliance with this section. The Commissioner of Education shall prescribe the format and the date for submission of such data and any other educational equity data. If any board does not submit the required compliance data or other required educational equity data by the prescribed date, the commissioner shall notify the board of this fact and, if the board does not take appropriate action to immediately submit the required report, the State Board of Education shall impose monetary sanctions.

(f) Based upon rules of the State Board of Education, developing and implementing enforcement mechanisms with appropriate penalties to ensure

that public K-12 schools and community colleges comply with Title IX of the Education Amendments of 1972 and subsection (3) of this section. However, the State Board of Education may not force a public school or community college to conduct, nor penalize such entity for not conducting, a program of athletic activity or athletic scholarship for female athletes unless it is an athletic activity approved for women by a recognized association whose purpose is to promote athletics and a conference or league exists to promote interscholastic or intercollegiate competition for women in that athletic activity.

(g) Reporting to the Commissioner of Education any district school board or community college board of trustees found to be out of compliance with rules of the State Board of Education adopted as required by paragraph (f) or paragraph (3)(d). To penalize the board, the State Board of Education shall:

1. Declare the school district or community college ineligible for competitive state grants.

2. Notwithstanding the provisions of s. 216.192, direct the Chief Financial Officer to withhold general revenue funds sufficient to obtain compliance from the school district or community college.

The school district or community college shall remain ineligible and the funds shall not be paid until the institution comes into compliance or the State Board of Education approves a plan for compliance.

(7) A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action for such equitable relief as the court may determine. The court may also award reasonable attorney's fees and court costs to a prevailing party.

History.—s. 7, ch. 2002-387; s. 1942, ch. 2003-261; s. 70, ch. 2004-357; s. 66, ch. 2007-217; s. 1, ch. 2008-26.

**1000.21 Systemwide definitions.**—As used in the Florida K-20 Education Code:

(1) "Articulation" is the systematic coordination that provides the means by which students proceed toward their educational objectives in as rapid and student-friendly manner as their circumstances permit, from grade level to grade level, from elementary to middle to high school, to and through postsecondary education, and when transferring from one educational institution or program to another.

(2) "Commissioner" is the Commissioner of Education.

(3) "Community college," except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:

- (a) Brevard Community College.
- (b) Broward College.
- (c) Central Florida Community College.
- (d) Chipola College.
- (e) Daytona Beach College.
- (f) Edison College.

- (g) Florida Community College at Jacksonville.
- (h) Florida Keys Community College.
- (i) Gulf Coast Community College.
- (j) Hillsborough Community College.
- (k) Indian River College.
- (l) Lake City Community College.
- (m) Lake-Sumter Community College.
- (n) Manatee Community College.
- (o) Miami Dade College.
- (p) North Florida Community College.
- (q) Okaloosa-Walton College.
- (r) Palm Beach Community College.
- (s) Pasco-Hernando Community College.
- (t) Pensacola Junior College.
- (u) Polk College.
- (v) St. Johns River Community College.
- (w) St. Petersburg College.
- (x) Santa Fe College.
- (y) Seminole Community College.
- (z) South Florida Community College.
- (aa) Tallahassee Community College.
- (bb) Valencia Community College.

(4) "Department" is the Department of Education.

(5) "Parent" is either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.

(6) "State university," except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:

- (a) The University of Florida
- (b) The Florida State University.
- (c) The Florida Agricultural and Mechanical University.

(d) The University of South Florida

(e) The Florida Atlantic University.

(f) The University of West Florida.

(g) The University of Central Florida

(h) The University of North Florida

(i) The Florida International University.

(j) The Florida Gulf Coast University.

(k) New College of Florida

(7) "Sunshine State Standards" or the "Next Generation Sunshine State Standards" means the state's public K-12 curricular standards adopted under s. 1003.41. The term includes the Sunshine State Standards that are in place for a subject until the standards for that subject are replaced under s. 1003.41 by the Next Generation Sunshine State Standards.

(8) "Board of Governors" is the Board of Governors of the State University System.

History.—s. 10, ch. 2002-387; s. 3, ch. 2004-271; s. 67, ch. 2007-217; s. 1, ch. 2008-52; s. 5, ch. 2008-163; s. 3, ch. 2008-235.

# Florida Statutes Pertaining to Special Programs

## Chapter 1001

### K–20 Governance

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#### **1001.02 General powers of State Board of Education.—**

(1) The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System, and it shall focus on high-level policy decisions. It has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it for the improvement of the state system of K-20 public education except for the State University System. Except as otherwise provided herein, it may, as it finds appropriate, delegate its general powers to the Commissioner of Education or the directors of the divisions of the department.

(2) The State Board of Education has the following duties:

(a) To adopt comprehensive educational objectives for public education except for the State University System.

(b) To adopt comprehensive long-range plans and short-range programs for the development of the state system of public education except for the State University System.

(c) To exercise general supervision over the divisions of the Department of Education as necessary to ensure coordination of educational plans and programs and resolve controversies and to minimize problems of articulation and student transfers, to ensure that students moving from one level of education to the next have acquired competencies necessary for satisfactory performance at that level, and to ensure maximum utilization of facilities.

(d) To adopt, in consultation with the Board of Governors, and from time to time modify, minimum and uniform standards of college-level communication and computation skills generally associated with successful performance and progression through the baccalaureate level and to identify college-preparatory high school coursework and postsecondary-level coursework that prepares students with the academic skills necessary to succeed in postsecondary education.

(e) To adopt and submit to the Governor and Legislature, as provided in s. 216.023, a coordinated K-20 education budget that estimates the expenditure requirements for the Board of Governors, as provided in s. 1001.706, the State Board of Education, including the Department of Education and the Commissioner of Education, and all of the boards, institutions, agencies, and services under the general supervision of the Board of Governors, as provided in s. 1001.706, or the State Board of

Education for the ensuing fiscal year. The State Board of Education may not amend the budget request submitted by the Board of Governors. Any program recommended by the Board of Governors or the State Board of Education which will require increases in state funding for more than 1 year must be presented in a multiyear budget plan.

(f) To hold meetings, transact business, keep records, adopt a seal, and, except as otherwise provided by law, perform such other duties as may be necessary for the enforcement of laws and rules relating to the state system of public education.

(g) To approve plans for cooperating with the Federal Government.

(h) To approve plans for cooperating with other public agencies in the development of rules and in the enforcement of laws for which the state board and such agencies are jointly responsible.

(i) To review plans for cooperating with appropriate nonpublic agencies for the improvement of conditions relating to the welfare of schools.

(j) To create such subordinate advisory bodies as are required by law or as it finds necessary for the improvement of education.

(k) To constitute any education bodies or other structures as required by federal law.

(l) To assist in the economic development of the state by developing a state-level planning process to identify future training needs for industry, especially high-technology industry.

(m) To assist in the planning and economic development of the state by establishing a clearinghouse for information on educational programs of value to economic development.

(n) To adopt cohesive rules pursuant to ss. 120.536(1) and 120.54, within statutory authority.

(o) To authorize the allocation of resources in accordance with law and rule.

(p) To contract with independent institutions accredited by an agency whose standards are comparable to the minimum standards required to operate a postsecondary educational institution at that level in the state. The purpose of the contract is to provide those educational programs and facilities which will meet needs unfulfilled by the state system of public postsecondary education.

(q) To recommend that a district school board take action consistent with the state board's decision relating to an appeal of a charter school application.

(r) To enforce systemwide education goals and policies except as otherwise provided by law.

(s) To establish a detailed procedure for the implementation and operation of a systemwide K-20

technology plan that is based on a common set of data definitions.

(t) To establish accountability standards for existing legislative performance goals, standards, and measures, and order the development of mechanisms to implement new legislative goals, standards, and measures.

(u) To adopt criteria and implementation plans for future growth issues, such as new community colleges and community college campus mergers, and to provide for cooperative agreements between and within public and private education sectors.

(v) To develop, in conjunction with the Board of Governors, and periodically review for adjustment, a coordinated 5-year plan for postsecondary enrollment and annually submit the plan to the Legislature.

(3)(a) The State Board of Education shall adopt a strategic plan that specifies goals and objectives for the state's public schools and community colleges. The plan shall be formulated in conjunction with plans of the Board of Governors in order to provide for the roles of the universities and community colleges to be coordinated to best meet state needs and reflect cost-effective use of state resources. The strategic plan must clarify mission statements and identify degree programs to be offered at each community college in accordance with the objectives provided in this subsection. The strategic plan must cover a period of 5 years, with modification of the program lists after 2 years. Development of each 5-year plan must be coordinated with and initiated after completion of the master plan. The strategic plans must specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state. The state board shall submit a report to the President of the Senate and the Speaker of the House of Representatives upon modification of the plan.

(b) The State Board of Education and the Board of Governors shall jointly develop long-range plans and annual reports for financial aid in this state. The long-range plans shall establish goals and objectives for a comprehensive program of financial aid for Florida students and shall be updated every 5 years. The annual report shall include programs administered by the department as well as awards made from financial aid fee revenues, any other funds appropriated by the Legislature for financial assistance, and the value of tuition and fees waived for students enrolled in a dual enrollment course at a public postsecondary educational institution. The annual report shall include an assessment of progress made in achieving goals and objectives established in the long-range plans and recommendations for repealing or modifying existing financial aid programs or establishing new programs. A long-range plan shall be submitted by January 1, 2004, and every 5 years thereafter. An annual report shall be submitted

on January 1, 2004, and in each successive year that a long-range plan is not submitted, to the President of the Senate and the Speaker of the House of Representatives.

(4) The State Board of Education shall:

(a) Provide for each community college to offer educational training and service programs designed to meet the needs of both students and the communities served.

(b) Specify, by rule, procedures to be used by the community college boards of trustees in the annual evaluations of presidents and review the evaluations of presidents by the boards of trustees.

(c) Establish, in conjunction with the Board of Governors, an effective information system that will provide composite data concerning the community colleges and state universities and ensure that special analyses and studies concerning the institutions are conducted, as necessary, for provision of accurate and cost-effective information concerning the institutions.

(d) Establish criteria for making recommendations for modifying district boundary lines for community colleges.

(e) Establish criteria for making recommendations concerning all proposals for the establishment of additional centers or campuses for community colleges.

(f) Examine the annual administrative review of each community college.

(g) Specify, by rule, the college credit courses that may be taken by community college students concurrently enrolled in college-preparatory instruction.

(h) Adopt and submit to the Legislature a 3-year list of priorities for fixed-capital-outlay projects. The State Board of Education may not amend the 3-year list of priorities of the Board of Governors.

(5) The State Board of Education is responsible for reviewing and administering the state program of support for the community colleges and, subject to existing law, shall establish the tuition and out-of-state fees for college-preparatory instruction and for credit instruction that may be counted toward an associate in arts degree, an associate in applied science degree, or an associate in science degree.

(6) The State Board of Education shall prescribe minimum standards, definitions, and guidelines for community colleges that will ensure the quality of education, coordination among the community colleges and state universities, and efficient progress toward accomplishing the community college mission. At a minimum, these rules must address:

(a) Personnel.

(b) Contracting.

(c) Program offerings and classification, including college-level communication and computation skills associated with successful performance in college and with tests and other assessment proce-

dures that measure student achievement of those skills. The performance measures must provide that students moving from one level of education to the next acquire the necessary competencies for that level.

(d) Provisions for curriculum development, graduation requirements, college calendars, and program service areas. These provisions must include rules that:

1. Provide for the award of an associate in arts degree to a student who successfully completes 60 semester credit hours at the community college.

2. Require all of the credits accepted for the associate in arts degree to be in the statewide course numbering system as credits toward a baccalaureate degree offered by a state university or a community college.

3. Require no more than 36 semester credit hours in general education courses in the subject areas of communication, mathematics, social sci-

ences, humanities, and natural sciences.

The rules should encourage community colleges to enter into agreements with state universities that allow community college students to complete upper-division-level courses at a community college. An agreement may provide for concurrent enrollment at the community college and the state university and may authorize the community college to offer an upper-division-level course or distance learning.

(e) Student admissions, conduct and discipline, nonclassroom activities, and fees.

(f) Budgeting

(g) Business and financial matters.

(h) Student services.

(i) Reports, surveys, and information systems, including forms and dates of submission.

History.—s. 20, ch. 2002-387; s. 68, ch. 2007-217.

#### **1001.11 Commissioner of Education; other duties.—**

(1) The Commissioner of Education must independently perform the following duties:

(a) Cooperate with and coordinate responses to requests from the members of the Legislature.

(b) Serve as the primary source of information to the Legislature, including the President of the Senate and the Speaker of the House of Representatives, concerning the State Board of Education and the K-20 education system.

(c) In cooperation with the Board of Governors, develop and implement a process for receiving and processing requests, in conjunction with the Legislature, for the allocation of PECO funds for qualified postsecondary education projects.

(d) Integrally work with the boards of trustees of the community colleges.

(e) Monitor the activities of the State Board of Education and provide information related to current and pending policies to the members of the boards of trustees of the community colleges and state universities.

(f) Ensure the timely provision of information requested by the Legislature from the State Board of Education, the commissioner's office, and the Department of Education.

(2) The Commissioner of Education shall annually report the state's educational performance on state and national measures and shall recommend to the State Board of Education performance goals addressing the educational needs of the state.

(3) Notwithstanding any other provision of law to the contrary, the Commissioner of Education, in conjunction with the Legislature, and the Board of Governors regarding the State University System, must recommend funding priorities for the distribution of capital outlay funds for public postsecondary educational institutions, based on priorities that

include, but are not limited to, the following criteria:

(a) Growth at the institutions.

(b) Need for specific skills statewide

(c) Need for maintaining and repairing existing facilities.

(4) The commissioner shall develop and implement an integrated K-20 information system for educational management in accordance with the requirements of chapter 1008.

(5) The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, in accordance with the requirements of chapter 1008.

(6) The commissioner is responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability, in accordance with the requirements of chapter 1008.

(7) The commissioner shall make prominently available on the department's website the following: links to the Internet-based clearinghouse for professional development regarding physical education; the school wellness and physical education policies and other resources required under s. 1003.453(1) and (2); and other Internet sites that provide professional development for elementary teachers of physical education as defined in s. 1003.01(16). These links must provide elementary teachers with information concerning current physical education and nutrition philosophy and best practices that result in student participation in physical activities that promote lifelong physical and mental well-being.

History.—s. 24, ch. 2002-387; s. 1, ch. 2007-28; s. 71, ch. 2007-217; s. 173, ch. 2008-4.

**1001.42 Powers and duties of district school board.**—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(1) **REQUIRE MINUTES AND RECORDS TO BE KEPT.**—Require the district school superintendent, as secretary, to keep such minutes and records as are necessary to set forth clearly all actions and proceedings of the school board.

(a) **Minutes, recording.**—The minutes of each meeting shall be reviewed, corrected if necessary, and approved at the next regular meeting, provided that this action may be taken at an intervening special meeting if the district school board desires. The minutes shall be kept as a public record in a permanent location.

(b) **Minutes, contents.**—The minutes shall show the vote of each member present on all matters on which the district school board takes action. It shall be the duty of each member to see to it that both the matter and his or her vote thereon are properly recorded in the minutes. Unless otherwise shown by the minutes, it shall be presumed that the vote of each member present supported any action taken by the district school board in either the exercise of, violation of, or neglect of the powers and duties imposed upon the district school board by law or rule, whether such action is recorded in the minutes or is otherwise established. It shall also be presumed that the policies, appointments, programs, and expenditures not recorded in the minutes but made and actually in effect in the district school system were made and put into effect at the direction of the district school board, unless it can be shown that they were done without the actual or constructive knowledge of the members of the district school board.

(2) **CONTROL PROPERTY.**—Subject to rules of the State Board of Education, control property and convey the title to real and personal property.

(3) **ADOPT SCHOOL PROGRAM.**—Adopt a school program for the entire school district.

(4) **ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.**—Adopt and provide for the execution of plans for the establishment, organization, and operation of the schools of the district, including, but not limited to, the following:

(a) **Schools and enrollment plans.**—Establish schools and adopt enrollment plans that may include school attendance areas and open enrollment provisions.

(b) **Elimination of school centers and consolidation of schools.**—Provide for the elimination of school centers and the consolidation of schools.

(c) **Adequate educational facilities for all children without tuition.**—Provide adequate educational facilities for all children without payment of tuition.

(d) **Cooperate with school boards of adjoining districts in maintaining schools.**—Approve plans for

cooperating with school boards of adjoining districts in this state or in adjoining states for establishing school attendance areas composed of territory lying within the districts and for the joint maintenance of district-line schools or other schools which are to serve those attendance areas. The conditions of such cooperation shall be as follows:

1. **Establishment.**—The establishment of a school to serve attendance areas lying in more than one district and the plans for maintaining the school and providing educational services to students shall be effected by annual resolutions spread upon the minutes of each district school board concerned, which resolutions shall set out the territorial limits of the areas from which children are to attend the school and the plan to be followed in maintaining and operating the school.

2. **Control.**—Control of the school or schools involved shall be vested in the district school board of the district in which the school or schools are located unless otherwise agreed by the district school boards.

3. **Settlement of disagreements.**—In the event an agreement cannot be reached relating to such attendance areas or to the school or schools therein, the matter may be referred jointly by the cooperating district school boards or by either district school board to the Department of Education for decision under rules of the State Board of Education, and its decision shall be binding on both school boards.

(e) **Classification and standardization of schools.**—Provide for the classification and standardization of schools.

(f) **Opening and closing of schools; fixing uniform date.**—Adopt policies for the opening and closing of schools and fix uniform dates; however, beginning with the 2007-2008 school year, the opening date for schools in the district may not be earlier than 14 days before Labor Day each year.

(g) **Observance of school holidays and vacation periods.**—Designate the observance of school holidays and vacation periods.

(h) **Career classes and schools.**—Provide for the establishment and maintenance of career schools, departments, or classes, giving instruction in career education as defined by rules of the State Board of Education, and use any moneys raised by public taxation in the same manner as moneys for other school purposes are used for the maintenance and support of public schools or classes.

(i) **District school boards may establish public evening schools.**—Have the authority to establish public evening schools.

(j) **Cooperate with other agencies in joint projects.**—Cooperate with other agencies in joint projects.

(k) **Planning time for teachers.**—May adopt rules for planning time for teachers in accordance with the provisions of chapter 1012.

(l) Exceptional students.—Provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the State Board of Education as acceptable in accordance with the provisions of s. 1003.57.

(m) Alternative education programs for students in residential care facilities.—Provide, in accordance with the provisions of s. 1003.58, educational programs according to rules of the State Board of Education to students who reside in residential care facilities operated by the Department of Children and Family Services.

(n) Educational services in detention facilities.—In accordance with the provisions of chapter 1006, offer services to students in detention facilities.

(5) PERSONNEL.—

(a) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees, subject to the requirements of chapter 1012. A district school board is encouraged to provide clerical personnel or volunteers who are not classroom teachers to assist teachers in noninstructional activities, including performing paperwork and recordkeeping duties. However, a teacher shall remain responsible for all instructional activities and for classroom management and grading student performance.

(b) Notwithstanding s. 1012.55 or any other provision of law or rule to the contrary and consistent with adopted district school board policy relating to alternative certification for school principals, have the authority to appoint persons to the position of school principal who do not hold educator certification.

(6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL PERSONNEL AND SCHOOL ADMINISTRATORS.—Adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A district school board, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another

educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify instructional personnel and school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. 1012.315. An elected or appointed school board official forfeits his or her salary for 1 year if:

(a) The school board official knowingly signs and transmits to any state official a report of alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student and the school board official knows the report to be false or incorrect; or

(b) The school board official knowingly fails to adopt policies that require instructional personnel and school administrators to report alleged misconduct by other instructional personnel and school administrators, or that require the investigation of all reports of alleged misconduct by instructional personnel and school administrators, if the misconduct affects the health, safety, or welfare of a student.

(8) STUDENT WELFARE.—

(a) In accordance with the provisions of chapters 1003 and 1006, provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.

(b) In accordance with the provisions of ss. 1003.31 and 1003.32, fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrolable, or disruptive students from the classroom and the school bus and the authority of the school board to place such students in an alternative educational setting, when appropriate and available.

(9) COURSES OF STUDY AND OTHER INSTRUCTIONAL MATERIALS.—Provide adequate instructional materials for all students in accordance with the requirements of chapter 1006.

(10) TRANSPORTATION OF STUDENTS.—After considering recommendations of the district school superintendent, make provision for the transportation of students to the public schools or school activities they are required or expected to attend; authorize transportation routes arranged efficiently and economically; provide the necessary transportation facilities, and, when authorized under rules of the State Board of Education and if more economical to do so, provide limited subsistence in lieu thereof; and adopt the necessary rules and regulations to ensure safety, economy, and efficiency in the operation

of all buses, as prescribed in chapter 1006.

(11) SCHOOL PLANT.—Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013 and as follows:

(a) School building program.—Approve and adopt a districtwide school building program.

(b) Sites, buildings, and equipment.

1. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

2. Approve the proposed purchase of any site, playground, or recreational area for which district funds are to be used.

3. Expand existing sites

4. Rent buildings when necessary.

5. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2), with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Current or other funds authorized by law may be used to make payments under a lease-purchase agreement. Notwithstanding any other statutes, if the rental is to be paid from funds received from ad valorem taxation and the agreement is for a period greater than 12 months, an approving referendum must be held. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without such approval. As used in this section, "educational facilities" means the buildings and equipment that are built, installed, or established to serve educational purposes and that may lawfully be used. The State Board of Education may adopt such rules as are necessary to implement these provisions.

6. Provide for the proper supervision of construction.

7. Make or contract for additions, alterations, and repairs on buildings and other school properties.

8. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

(c) Maintenance and upkeep of school plant.—Provide adequately for the proper maintenance and upkeep of school plants, so that students may attend school without sanitary or physical hazards, and provide for the necessary heat, lights, water, power, and other supplies and utilities necessary for the operation of the schools.

(d) Insurance of school property.—Carry insurance on every school building in all school plants including contents, boilers, and machinery, except buildings of three classrooms or less that are of

frame construction and located in a tenth class public protection zone as defined by the Florida Inspection and Rating Bureau, and on all school buses and other property under the control of the district school board or title to which is vested in the district school board, except as exceptions may be authorized under rules of the State Board of Education.

(e) Condemnation of buildings.—Condemn and prohibit the use for public school purposes of any building that can be shown for sanitary or other reasons to be no longer suitable for such use and, when any building is condemned by any state or other government agency as authorized in chapter 1013, see that it is no longer used for school purposes.

(12) FINANCE.—Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(a) Provide for all schools to operate at least 180 days.—Provide for the operation of all public schools, both elementary and secondary, as free schools for a term of at least 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education; determine district school funds necessary in addition to state funds to operate all schools for such minimum term; and arrange for the levying of district school taxes necessary to provide the amount needed from district sources.

(b) Annual budget.—Cause to be prepared, adopt, and have submitted to the Department of Education as required by law and rules of the State Board of Education, the annual school budget, such budget to be so prepared and executed as to promote the improvement of the district school system.

(c) Tax levies.—Adopt and spread on its minutes a resolution fixing the district school tax levy, provided for under s. 9, Art. VII of the State Constitution, necessary to carry on the school program adopted for the district for the next ensuing fiscal year as required by law, and fixing the district bond interest and sinking fund tax levy necessary for districts against which bonds are outstanding; and adopt and spread on its minutes a resolution suggesting the tax levy provided for in s. 9, Art. VII of the State Constitution, found necessary to carry on the school program adopted for the district for the next ensuing fiscal year.

(d) School funds.—Require that an accurate account is kept of all funds that should be transmitted to the district school board for school purposes at various periods during the year from all sources and, if any funds are not transmitted promptly, take the necessary steps to have such funds made available.

(e) Borrow money.—Borrow money, as prescribed in ss. 1011.12-1011.16, when necessary in anticipation of funds reasonably to be expected during the year as shown by the budget.

(f) Financial records and accounts.—Provide for keeping of accurate records of all financial transac-

tions.

(g) Approval and payment of accounts.—Implement a system of accounting and budgetary control to ensure that payments do not exceed amounts budgeted, as required by law; make available all records for proper audit by state officials or independent certified public accountants; and have prepared required periodic statements to be filed with the Department of Education as provided by rules of the State Board of Education.

(h) Bonds of employees.—Fix and prescribe the bonds, and pay the premium on all such bonds, of all school employees who are responsible for school funds in order to provide reasonable safeguards for all such funds or property.

(i) Contracts for materials, supplies, and services.—Contract for materials, supplies, and services needed for the district school system. No contract for supplying these needs shall be made with any member of the district school board, with the district school superintendent, or with any business organization in which any district school board member or the district school superintendent has any financial interest whatsoever.

(j) Purchasing regulations to be secured from Department of Management Services.—Secure purchasing regulations and amendments and changes thereto from the Department of Management Services and prior to any purchase have reported to it by its staff, and give consideration to the lowest price available to it under such regulations, provided a regulation applicable to the item or items being purchased has been adopted by the department. The department should meet with educational administrators to expand the inventory of standard items for common usage in all schools and postsecondary educational institutions.

(k) Protection against loss.—Provide for adequate protection against any loss or damage to school property or loss resulting from any liability for which the district school board or its officers, agents, or employees may be responsible under law. In fulfilling this responsibility, the district school board may purchase insurance, to be self-insured, to enter into risk management programs managed by district school boards, school-related associations, or insurance companies, or to have any combination thereof in any area to the extent the district school board is either authorized or required by law to contract for insurance. Any risk management program entered into pursuant to this subsection shall provide for strict accountability of all funds to the member district school boards and an annual audit by an independent certified public accountant of all receipts and disbursements.

(l) Internal auditor.—May employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor shall report directly to the district school board or its designee.

(m) Financial and performance audits.—In addition to the audits required by ss. 11.45 and 218.39, may contract with an independent certified public accountant to conduct a financial or performance audit of its accounts and records retained by it and paid from its public funds.

(13) RECORDS AND REPORTS.—Provide for the keeping of all necessary records and the making of all needed or required reports, as follows:

(a) Forms, blanks, and reports.—Require all employees to keep accurately all records and to make promptly in the proper form all reports required by law or by rules of the State Board of Education.

(b) Reports to the department.—Require that the district school superintendent prepare all reports to the Department of Education that may be required by law or rules of the State Board of Education; see that all such reports are promptly transmitted to the department; withhold the further payment of salary to the superintendent or employee when notified by the department that he or she has failed to file any report within the time or in the manner prescribed; and continue to withhold the salary until the district school board is notified by the department that such report has been received and accepted, provided that when any report has not been received by the date due and after due notice has been given to the district school board of that fact, the department, if it deems necessary, may require the report to be prepared by a member of its staff, and the district school board shall pay all expenses connected therewith. Any member of the district school board who is responsible for the violation of this provision is subject to suspension and removal.

(c) Reports to parents.—Require that, at regular intervals, reports are made by school principals or teachers to parents, apprising them of the progress being made by the students in their studies and giving other needful information.

(14) COOPERATION WITH OTHER DISTRICT SCHOOL BOARDS.—May establish and participate in educational consortia that are designed to provide joint programs and services to cooperating school districts, consistent with the provisions of s. 4(b), Art. IX of the State Constitution. The State Board of Education shall adopt rules providing for the establishment, funding, administration, and operation of such consortia.

(15) ENFORCEMENT OF LAW AND RULES.—Require that all laws and rules of the State Board of Education or of the district school board are properly enforced.

(16) SCHOOL LUNCH PROGRAM.—Assume such responsibilities and exercise such powers and perform such duties as may be assigned to it by law or as may be required by rules of the State Board of Education or, as in the opinion of the district school board, are necessary to ensure school lunch services, consistent with needs of students; effective and efficient operation of the program; and the

proper articulation of the school lunch program with other phases of education in the district.

**(17) PUBLIC INFORMATION AND PARENTAL INVOLVEMENT PROGRAM.—**

(a) Adopt procedures whereby the general public can be adequately informed of the educational programs, needs, and objectives of public education within the district, including educational opportunities available through the Florida Virtual School.

(b) Adopt rules to strengthen family involvement and empowerment pursuant to s. 1002.23. The rules shall be developed in collaboration with school administrators, parents, teachers, and community partners.

(c) Develop and disseminate a parent guide to successful student achievement which addresses what parents need to know about their child's educational progress and how they can help their child to succeed in school.

(d) Develop and disseminate a checklist for parents to assist parents in becoming involved in their child's educational progress.

(e) Encourage teachers and administrators to keep parents informed of student progress, student programs, student attendance requirements pursuant to ss. 1003.26, 1003.27, 414.1251, and 984.151, and availability of resources for academic assistance.

**(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—**Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall include, but is not limited to, the following:

(a) School improvement plans.—Annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. A district school board may establish a district school improvement plan that includes all schools in the district operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The school improvement plan shall be designed to achieve the state education priorities pursuant to s. 1000.03(5) and student proficiency on the Sunshine State Standards pursuant to s. 1003.41. Each plan shall address student achievement goals and strategies based on state and school district proficiency standards. The plan may also address issues relative to other academic-related matters, as determined by district school board policy, and shall include an accurate, data-based analysis of student achievement and other school performance data. Beginning with plans approved for implementation in

the 2007-2008 school year, each secondary school plan must include a redesign component based on the principles established in s. 1003.413. For each school in the district that earns a school grade of "C" or below, or is required to have a school improvement plan under federal law, the school improvement plan shall, at a minimum, also include:

1. Professional development that supports enhanced and differentiated instructional strategies to improve teaching and learning.

2. Continuous use of disaggregated student achievement data to determine effectiveness of instructional strategies.

3. Ongoing informal and formal assessments to monitor individual student progress, including progress toward mastery of the Sunshine State Standards, and to redesign instruction if needed.

4. Alternative instructional delivery methods to support remediation, acceleration, and enrichment strategies.

(b) Approval process.—Develop a process for approval of a school improvement plan presented by an individual school and its advisory council. In the event a district school board does not approve a school improvement plan after exhausting this process, the Department of Education shall be notified of the need for assistance.

(c) Assistance and intervention.—

1. Develop a 2-year plan of increasing individualized assistance and intervention for each school in danger of not meeting state standards or making adequate progress, as defined pursuant to statute and State Board of Education rule, toward meeting the goals and standards of its approved school improvement plan.

2. Provide assistance and intervention to a school that is designated with a grade of "D" pursuant to s. 1008.34 and is in danger of failing.

3. Develop a plan to encourage teachers with demonstrated mastery in improving student performance to remain at or transfer to a school with a grade of "D" or "F" or to an alternative school that serves disruptive or violent youths. If a classroom teacher, as defined by s. 1012.01(2)(a), who meets the definition of teaching mastery developed according to the provisions of this paragraph, requests assignment to a school designated with a grade of "D" or "F" or to an alternative school that serves disruptive or violent youths, the district school board shall make every practical effort to grant the request.

4. Prioritize, to the extent possible, the expenditures of funds received from the supplemental academic instruction categorical fund under s. 1011.62(1)(f) to improve student performance in schools that receive a grade of "D" or "F."

(d) After 2 years.—Notify the Commissioner of Education and the State Board of Education in the event any school does not make adequate progress toward meeting the goals and standards of a school improvement plan by the end of 2 years of failing

to make adequate progress and proceed according to guidelines developed pursuant to statute and State Board of Education rule. School districts shall provide intervention and assistance to schools in danger of being designated with a grade of "F," failing to make adequate progress.

(e) Public disclosure.—Provide information regarding performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule that shall include schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, and for those schools, report on the elements specified in s. 1003.52(19). Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without GED tests, disaggregated by student ethnicity, and performance data as specified in state board rule.

(f) School improvement funds.—Provide funds to schools for developing and implementing school improvement plans. Such funds shall include those funds appropriated for the purpose of school improvement pursuant to s. 24.121(5)(c).

(19) LOCAL-LEVEL DECISIONMAKING.—

(a) Adopt policies that clearly encourage and enhance maximum decisionmaking appropriate to the school site. Such policies must include guidelines for schools in the adoption and purchase of district and school site instructional materials and technology, the implementation of student health and fitness standards, staff training, school advisory council member training, student support services, budgeting, and the allocation of staff resources.

(b) Adopt waiver process policies to enable all schools to exercise maximum flexibility and notify advisory councils of processes to waive school district and state policies.

(c) Develop policies for periodically monitoring the membership composition of school advisory councils to ensure compliance with requirements established in s. 1001.452.

(d) Adopt policies that assist in giving greater autonomy, including authority over the allocation of the school's budget, to schools designated with a grade of "A," making excellent progress, and schools rated as having improved at least two grades.

(20) OPPORTUNITY SCHOLARSHIPS.—Adopt policies allowing students attending schools that have been designated with a grade of "F," failing to make adequate progress, for 2 school years in a 4-year period to attend a higher performing school in the district or an adjoining district or be granted

a state opportunity scholarship to a private school, in conformance with s. 1002.38 and State Board of Education rule.

(21) AUTHORITY TO DECLARE AN EMERGENCY.—May declare an emergency in cases in which one or more schools in the district are failing or are in danger of failing and negotiate special provisions of its contract with the appropriate bargaining units to free these schools from contract restrictions that limit the school's ability to implement programs and strategies needed to improve student performance.

(22) SCHOOL-WITHIN-A-SCHOOL.—In order to reduce the anonymity of students in large schools, adopt policies to encourage any large school to subdivide into schools-within-a-school that shall operate within existing resources in accordance with the provisions of chapter 1003.

(23) FLORIDA VIRTUAL SCHOOL.—Provide students with access to enroll in courses available through the Florida Virtual School and award credit for successful completion of such courses. Access shall be available to students during or after the normal school day and through summer school enrollment.

(24) REDUCE PAPERWORK AND DATA COLLECTION AND REPORTING REQUIREMENTS.—Beginning with the 2006-2007 school year:

(a) Each district school board shall designate a classroom teacher to serve as the teacher representative to speak on behalf of the district's teachers regarding paperwork and data collection reduction.

(b) Each district school board must provide the school community with an efficient method for the classroom teacher designee to communicate with the classroom teacher designee regarding possible paperwork and data collection burdens and potential solutions.

(c) The teacher designee shall annually report his or her findings and potential solutions to the school board.

(d) Each district school board must submit its findings and potential solutions to the State Board of Education by September 1 of each year.

(e) The State Board of Education shall prepare a report of the statewide paperwork and data collection findings and potential solutions and submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

(25) ADOPT RULES.—Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

History.—s. 55, ch. 2002-387; s. 3, ch. 2003-118; s. 29, ch. 2003-391; s. 27, ch. 2004-41; s. 3, ch. 2004-255; s. 8, ch. 2004-333; s. 71, ch. 2004-357; s. 11, ch. 2006-74; s. 9, ch. 2008-108.

**1001.451 Regional consortium service organizations.**—In order to provide a full range of programs to larger numbers of students, minimize duplication of services, and encourage the develop-

ment of new programs and services:

(1) School districts with 20,000 or fewer unweighted full-time equivalent students, developmental research (laboratory) schools established

pursuant to s. 1002.32, and the Florida School for the Deaf and the Blind may enter into cooperative agreements to form a regional consortium service organization. Each regional consortium service organization shall provide, at a minimum, three of the following services: exceptional student education; teacher education centers; environmental education; federal grant procurement and coordination; data processing; health insurance; risk management insurance; staff development; purchasing; or planning and accountability.

(2)(a) Each regional consortium service organization that consists of four or more school districts is eligible to receive, through the Department of Education, an incentive grant of \$50,000 per school district and eligible member to be used for the delivery of services within the participating school districts. The determination of services and use of such funds shall be established by the board of directors of the regional consortium service organization. The funds shall be distributed to each regional consortium service organization no later than 30 days following the release of the funds to the department.

(b) Application for incentive grants shall be made to the Commissioner of Education by July 30 of each year for distribution to qualifying regional consortium service organizations by January 1 of the fiscal year.

(c) Notwithstanding paragraph (a), the appropriation for the 2008-2009 fiscal year may be less than \$50,000 per school district and eligible member. If the amount appropriated is insufficient to provide \$50,000, the funds available must be prorated among all eligible districts and members. This paragraph expires July 1, 2009.

(3) In order to economically provide programs and services to participating school districts and members, a regional consortium service organization may establish purchasing and bidding programs, including construction and construction management arrangements, in lieu of individual school district bid arrangements pursuant to policies exercised by its member districts. Participation in regional consortium service organization bids shall be accomplished by action of an individual district school board through a letter of intent to participate and shall be reflected in official district school board minutes.

(4) A regional consortium service organization board of directors may elect to establish a direct-support organization pursuant to s. 1001.453 which is independent of its fiscal agent district.

History.—s. 58, ch. 2002-387; s. 3, ch. 2005-56; s. 2, ch. 2006-27; s. 17, ch. 2006-301; s. 3, ch. 2008-142.

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**1001.49 General powers of district school superintendent.**—The district school superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the district school superintendent shall exercise the following powers:

(1) GENERAL OVERSIGHT.—Exercise general oversight over the district school system in order to determine problems and needs, and recommend improvements.

(2) ADVISE, COUNSEL, AND RECOMMEND TO DISTRICT SCHOOL BOARD.—Advise and counsel with the district school board on all educational matters and recommend to the district school board for action such matters as should be acted upon.

(3) RECOMMEND POLICIES.—Recommend to the district school board for adoption such policies pertaining to the district school system as the district school superintendent may consider necessary for its more efficient operation.

(4) RECOMMEND AND EXECUTE RULES.—Prepare and organize by subjects and submit to the district school board for adoption such rules to

supplement those adopted by the State Board of Education as, in the district school superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules have been adopted, the district school superintendent shall see that they are executed.

(5) RECOMMEND AND EXECUTE MINIMUM STANDARDS.—From time to time prepare, organize by subject, and submit to the district school board for adoption such minimum standards relating to the operation of any phase of the district school system as are needed to supplement those adopted by the State Board of Education and as will contribute to the efficient operation of any aspect of education in the district and ensure that minimum standards adopted by the district school board and the state board are observed.

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.—Perform such duties and exercise such responsibilities as are assigned to the district school superintendent by law and by rules of the State Board of Education.

History.—s. 69, ch. 2002-387.

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**1001.51 Duties and responsibilities of district school superintendent.**—The district school superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law, provided that, in so doing, he or she shall advise and counsel with the district school board. The district school superintendent shall perform all tasks neces-

sary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board. All such recommendations, nominations, proposals, and reports by the district school superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records

of the district school board. It shall be presumed that, in the absence of the record required in this section, the recommendations, nominations, and proposals required of the district school superintendent were not contrary to the action taken by the district school board in such matters.

(1) ASSIST IN ORGANIZATION OF DISTRICT SCHOOL BOARD.—Preside at the organization meeting of the district school board and transmit to the Department of Education, within 2 weeks following such meeting, a certified copy of the proceedings of organization, including the schedule of regular meetings, and the names and addresses of district school officials.

(2) REGULAR AND SPECIAL MEETINGS OF THE DISTRICT SCHOOL BOARD.—Attend all regular meetings of the district school board, call special meetings when emergencies arise, and advise, but not vote, on questions under consideration.

(3) RECORDS FOR THE DISTRICT SCHOOL BOARD.—Keep minutes of all official actions and proceedings of the district school board and keep such other records, including records of property held or disposed of by the district school board, as may be necessary to provide complete information regarding the district school system.

(4) SCHOOL PROPERTY.—Act for the district school board as custodian of school property.

(5) SCHOOL PROGRAM; PREPARE PLANS.—Supervise the assembling of data and sponsor studies and surveys essential to the development of a planned school program for the entire district and prepare and recommend such a program to the district school board as the basis for operating the district school system.

(6) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS, CLASSES, AND SERVICES.—Recommend the establishment, organization, and operation of such schools, classes, and services as are needed to provide adequate educational opportunities for all children in the district.

(7) PERSONNEL.—Be responsible, as required herein, for directing the work of the personnel, subject to the requirements of chapter 1012.

(8) COURSES OF STUDY AND OTHER INSTRUCTIONAL AIDS.—Recommend such plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional aids as will result in general improvement of the district school system, as prescribed in chapter 1006.

(9) TRANSPORTATION OF STUDENTS.—Provide for student transportation as prescribed in s. 1006.21.

(10) SCHOOL PLANT.—Recommend plans, and execute such plans as are approved, regarding all phases of the school plant program, as prescribed in chapter 1013.

(11) FINANCE.—Recommend measures to the district school board to assure adequate educational facilities throughout the district, in accordance with

the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(a) Plan for operating all schools for minimum term.—Determine and recommend district funds necessary in addition to state funds to provide for at least a 180-day school term or the equivalent on an hourly basis as specified by rules adopted by the State Board of Education and recommend plans for ensuring the operation of all schools for the term authorized by the district school board.

(b) Annual budget.—Prepare the annual school budget to be submitted to the district school board for adoption according to law and submit this budget, when adopted by the district school board, to the Department of Education on or before the date required by rules of the State Board of Education.

(c) Tax levies.—Recommend to the district school board, on the basis of the needs shown by the budget, the amount of district school tax levy necessary to provide the district school funds needed for the maintenance of the public schools; recommend to the district school board the tax levy required on the basis of the needs shown in the budget for the district bond interest and sinking fund of each district; and recommend to the district school board to be included on the ballot at each district millage election the school district tax levies necessary to carry on the school program.

(d) School funds.—Keep an accurate account of all funds that should be transmitted to the district school board for school purposes at various periods during the year and ensure, insofar as possible, that these funds are transmitted promptly and report promptly to the district school board any delinquencies or delays that occur in making available any funds that should be made available for school purposes.

(e) Borrowing money.—Recommend when necessary the borrowing of money as prescribed by law.

(f) Financial records and accounting.—Keep or have kept accurate records of all financial transactions.

(g) Payrolls and accounts.—Maintain accurate and current statements of accounts due to be paid by the district school board; certify these statements as correct; liquidate district school board obligations in accordance with the official budget and rules of the district school board; and prepare periodic reports as required by rules of the State Board of Education, showing receipts, balances, and disbursements to date, and file copies of such periodic reports with the Department of Education.

(h) Bonds for employees.—Recommend the bonds of all school employees who should be bonded in order to provide reasonable safeguards for all school funds or property.

(i) Contracts.—After study of the feasibility of contractual services with industry, recommend to the district school board the desirable terms, conditions, and specifications for contracts for supplies, materi-

als, or services to be rendered and see that materials, supplies, or services are provided according to contract.

(j) Investment policies.—After careful examination, recommend policies to the district school board that will provide for the investment or deposit of school funds not needed for immediate expenditures which shall earn the maximum possible yield under the circumstances on such investments or deposits. The district school superintendent shall cause to be invested at all times all school moneys not immediately needed for expenditures pursuant to the policies of the district school board.

(k) Protection against loss.—Recommend programs and procedures to the district school board necessary to protect the school system adequately against loss or damage to school property or against loss resulting from any liability for which the district school board or its officers, agents, or employees may be responsible under law.

(l) Millage elections.—Recommend plans and procedures for holding and supervising all school district millage elections.

(m) Budgets and expenditures.—Prepare, after consulting with the principals of the various schools, tentative annual budgets for the expenditure of district funds for the benefit of public school students of the district.

(n) Bonds.—Recommend the amounts of bonds to be issued in the district and assist in the preparation of the necessary papers for an election to determine whether the proposed bond issue will be approved by the electors and, if such bond issue be approved by the electors, recommend plans for the sale of bonds and for the proper expenditure of the funds derived therefrom.

(12) RECORDS AND REPORTS.—Recommend such records as should be kept in addition to those prescribed by rules of the State Board of Education; prepare forms for keeping such records as are approved by the district school board; ensure that such records are properly kept; and make all reports that are needed or required, as follows:

(a) Forms, blanks, and reports.—Require that all employees accurately keep all records and promptly make in proper form all reports required by the education code or by rules of the State Board of Education; recommend the keeping of such additional records and the making of such additional reports as may be deemed necessary to provide data essential for the operation of the school system; and prepare such forms and blanks as may be required and ensure that these records and reports are properly prepared.

(b) Reports to the department.—Prepare, for the approval of the district school board, all reports required by law or rules of the State Board of Education to be made to the department and transmit promptly all such reports, when approved, to the department, as required by law. If any reports are not

transmitted at the time and in the manner prescribed by law or by State Board of Education rules, the salary of the district school superintendent must be withheld until the report has been properly submitted. Unless otherwise provided by rules of the State Board of Education, the annual report on attendance and personnel is due on or before July 1, and the annual school budget and the report on finance are due on the date prescribed by the commissioner.

Any district school superintendent who knowingly signs and transmits to any state official a report that the superintendent knows to be false or incorrect; who knowingly fails to investigate any allegation of misconduct by instructional personnel or school administrators, as defined in s. 1012.01, which affects the health, safety, or welfare of a student; or who knowingly fails to report the alleged misconduct to the department as required in s. 1012.796, forfeits his or her salary for 1 year following the date of such act or failure to act.

(13) COOPERATION WITH OTHER AGENCIES.—

(a) Cooperation with governmental agencies in enforcement of laws and rules.—Recommend plans for cooperating with, and, on the basis of approved plans, cooperate with federal, state, county, and municipal agencies in the enforcement of laws and rules pertaining to all matters relating to education and child welfare.

(b) Identifying and reporting names of migratory children, other information.—Recommend plans for identifying and reporting to the Department of Education the name of each child in the school district who qualifies according to the definition of a migratory child, based on Pub. L. No. 95-561, and for reporting such other information as may be prescribed by the department.

(14) ENFORCEMENT OF LAWS AND RULES.—Require that all laws and rules of the State Board of Education, as well as supplementary rules of the district school board, are properly observed and report to the district school board any violation that the district school superintendent does not succeed in having corrected.

(15) COOPERATE WITH DISTRICT SCHOOL BOARD.—Cooperate with the district school board in every manner practicable to the end that the district school system may continuously be improved.

(16) VISITATION OF SCHOOLS.—Visit the schools; observe the management and instruction; give suggestions for improvement; and advise supervisors, principals, teachers, and other citizens with the view of promoting interest in education and improving the school conditions of the district.

(17) CONFERENCES, INSTITUTES, AND STUDY COURSES.—Call and conduct institutes and conferences with employees of the district school board, school patrons, and other interested citizens; organize and direct study and extension courses for employees, advising them as to their professional

studies; and assist patrons and people generally in acquiring knowledge of the aims, services, and needs of the schools.

(18) PROFESSIONAL AND GENERAL IMPROVEMENT.—Attend such conferences for district school superintendents as may be called or scheduled by the Department of Education and avail himself or herself of means of professional and general improvement so that he or she may function most efficiently.

(19) RECOMMEND REVOKING CERTIFICATES.—Recommend in writing to the Department of Education the revoking of any certificate for good cause, including a full statement of the reason for the district school superintendent's recommendation.

(20) MAKE RECORDS AVAILABLE TO SUCCESSOR.—Leave with the district school board and make available to his or her successor, upon retiring from office, a complete inventory of school equipment and other property, together with all official records and such other records as may be needed in supervising instruction and in administering the district school system.

(21) RECOMMEND PROCEDURES FOR INFORMING GENERAL PUBLIC.—Recommend to

the district school board procedures whereby the general public can be adequately informed of the educational programs, needs, and objectives of public education within the district.

(22) SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Recommend procedures for implementing and maintaining a system of school improvement and education accountability as provided by statute and State Board of Education rule.

(23) PARENTAL INVOLVEMENT.—Fully support and cooperate in the implementation of s. 1002.23.

(24) ORDERLY CLASSROOMS AND SCHOOL BUSES.—Fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and the authority of the school principal to place such students in an alternative educational setting, when appropriate and available.

(25) OTHER DUTIES AND RESPONSIBILITIES.—Perform such other duties as are assigned to the district school superintendent by law or by rules of the State Board of Education.

History.—s. 71, ch. 2002-387; s. 4, ch. 2003-118; s. 30, ch. 2003-391; s. 30, ch. 2004-41; s. 12, ch. 2006-74; s. 11, ch. 2008-108.

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**1001.52 Reproduction and destruction of district school records.—**

(1) The purpose of this section is to reduce the present space required by the district school systems for the storage of their records and to permit the district school superintendent to administer the affairs of the district school system more efficiently.

(2) After complying with the provisions of s. 257.37, the district school superintendent may photograph, microphotograph, or reproduce documents, records, data, and information of a permanent character which in his or her discretion he or she may select, and the district school superintendent may destroy any of the said documents after they have been reproduced and after audit of the district school superintendent's office has been completed for the period embracing the dates of said instruments. Information made in compliance with the

provisions of this section shall have the same force and effect as the originals thereof would have, and shall be treated as originals for the purpose of their admissibility into evidence. Duly certified or authenticated reproductions shall be admitted into evidence equally with the originals.

(3) After complying with the provisions of s. 257.37, the district school superintendent may, in his or her discretion, destroy general correspondence that is over 3 years old and other records, papers, and documents over 3 years old that do not serve as part of an agreement or understanding and do not have value as permanent records.

History.—s. 72, ch. 2002-387.



Florida Statutes Pertaining to Special Programs  
Chapter 1002  
Student and Parental Rights and Educational Choices

**1002.20 K-12 student and parent rights.**—Parents of public school students must receive accurate and timely information regarding their child’s academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(1) **SYSTEM OF EDUCATION.**—In accordance with s. 1, Art. IX of the State Constitution, all K-12 public school students are entitled to a uniform, safe, secure, efficient, and high quality system of education, one that allows students the opportunity to obtain a high quality education. Parents are responsible to ready their children for school; however, the State of Florida cannot be the guarantor of each individual student’s success.

(2) **ATTENDANCE.**—

(a) **Compulsory school attendance.**—The compulsory school attendance laws apply to all children between the ages of 6 and 16 years, as provided in s. 1003.21(1) and (2)(a), and, in accordance with the provisions of s. 1003.21(1) and (2)(a):

1. A student who attains the age of 16 years during the school year has the right to file a formal declaration of intent to terminate school enrollment if the declaration is signed by the parent. The parent has the right to be notified by the school district of the district’s receipt of the student’s declaration of intent to terminate school enrollment.

2. Students who become or have become married or who are pregnant and parenting have the right to attend school and receive the same or equivalent educational instruction as other students.

(b) **Regular school attendance.**—Parents of students who have attained the age of 6 years by February 1 of any school year but who have not attained the age of 16 years must comply with the compulsory school attendance laws. Parents have the option to comply with the school attendance laws by attendance of the student in a public school; a parochial, religious, or denominational school; a private school; a home education program; or a private tutoring program, in accordance with the provisions of s. 1003.01(13).

(c) **Absence for religious purposes.**—A parent of a public school student may request and be granted permission for absence of the student from school for religious instruction or religious holidays, in accordance with the provisions of s. 1003.21(2)(b).

(d) **Dropout prevention and academic intervention programs.**—The parent of a public school student has the right to receive written notice by certified mail prior to placement of the student in a dropout

prevention and academic intervention program and shall be notified in writing and entitled to an administrative review of any action by school personnel relating to the student’s placement, in accordance with the provisions of s. 1003.53(5).

(3) **HEALTH ISSUES.**—

(a) **School-entry health examinations.**—The parent of any child attending a public or private school shall be exempt from the requirement of a health examination upon written request stating objections on religious grounds in accordance with the provisions of s. 1003.22(1) and (2).

(b) **Immunizations.**—The parent of any child attending a public or private school shall be exempt from the school immunization requirements upon meeting any of the exemptions in accordance with the provisions of s. 1003.22(5).

(c) **Biological experiments.**—Parents may request that their child be excused from performing surgery or dissection in biological science classes in accordance with the provisions of s. 1003.47.

(d) **Reproductive health and disease education.**—A public school student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, in accordance with the provisions of s. 1003.42(3).

(e) **Contraceptive services to public school students.**—In accordance with the provisions of s. 1006.062(7), students may not be referred to or offered contraceptive services at school facilities without the parent’s consent.

(f) **Career education courses involving hazardous substances.**—High school students must be given plano safety glasses or devices in career education courses involving the use of hazardous substances likely to cause eye injury, in accordance with the provisions of s. 1006.65.

(g) **Substance abuse reports.**—The parent of a public school student must be timely notified of any verified report of a substance abuse violation by the student, in accordance with the provisions of s. 1006.09(8).

(h) **Inhaler use.**—Asthmatic students whose parent and physician provide their approval to the school principal may carry a metered dose inhaler on their person while in school. The school principal shall be provided a copy of the parent’s and physician’s approval.

(i) **Epinephrine use.**—A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities,

or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

(4) DISCIPLINE.—

(a) Suspension of public school student.—In accordance with the provisions of s. 1006.09(1)-(4):

1. A student may be suspended only as provided by rule of the district school board. A good faith effort must be made to immediately inform the parent by telephone of the student's suspension and the reason. Each suspension and the reason must be reported in writing within 24 hours to the parent by United States mail. A good faith effort must be made to use parental assistance before suspension unless the situation requires immediate suspension.

2. A student with a disability may only be recommended for suspension or expulsion in accordance with State Board of Education rules.

(b) Expulsion.—Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1).

(c) Corporal punishment.—In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request, the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

(5) SAFETY.—In accordance with the provisions of s. 1006.13(5), students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

(6) EDUCATIONAL CHOICE.—

(a) Public school choices.—Parents of public school students may seek whatever public school choice options that are applicable to their students and are available to students in their school districts. These options may include controlled open enrollment, single-gender programs, lab schools, school district virtual instruction programs, charter schools,

charter technical career centers, magnet schools, alternative schools, special programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public school choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

(b) Private school choices.—Parents of public school students may seek private school choice options under certain programs.

1. Under the Opportunity Scholarship Program, the parent of a student in a failing public school may request and receive an opportunity scholarship for the student to attend a private school in accordance with the provisions of s. 1002.38.

2. Under the McKay Scholarships for Students with Disabilities Program, the parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship for the student to attend a private school in accordance with the provisions of s. 1002.39.

3. Under the corporate income tax credit scholarship program, the parent of a student who qualifies for free or reduced-price school lunch may seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with the provisions of s. 220.187.

(c) Home education.—The parent of a student may choose to place the student in a home education program in accordance with the provisions of s. 1002.41.

(d) Private tutoring.—The parent of a student may choose to place the student in a private tutoring program in accordance with the provisions of s. 1002.43(1).

(7) NONDISCRIMINATION.—All education programs, activities, and opportunities offered by public educational institutions must be made available without discrimination on the basis of race, ethnicity, national origin, gender, disability, or marital status, in accordance with the provisions of s. 1000.05.

(8) STUDENTS WITH DISABILITIES.—Parents of public school students with disabilities and parents of public school students in residential care facilities are entitled to notice and due process in accordance with the provisions of ss. 1003.57 and 1003.58. Public school students with disabilities must be provided the opportunity to meet the graduation requirements for a standard high school diploma in accordance with the provisions of s. 1003.43(4). Certain public school students with disabilities may be awarded a special diploma upon high school graduation.

(9) **BLIND STUDENTS.**—Blind students have the right to an individualized written education program and appropriate instructional materials to attain literacy, in accordance with provisions of s. 1003.55.

(10) **LIMITED ENGLISH PROFICIENT STUDENTS.**—In accordance with the provisions of s. 1003.56, limited English proficient students have the right to receive ESOL (English for Speakers of Other Languages) instruction designed to develop the student's mastery of listening, speaking, reading, and writing in English as rapidly as possible, and the students' parents have the right of parental involvement in the ESOL program.

(11) **STUDENTS WITH READING DEFICIENCIES.**—Each elementary school shall regularly assess the reading ability of each K-3 student. The parent of any K-3 student who exhibits a reading deficiency shall be immediately notified of the student's deficiency with a description and explanation, in terms understandable to the parent, of the exact nature of the student's difficulty in learning and lack of achievement in reading; shall be consulted in the development of a progress monitoring plan, as described in s. 1008.25(4)(b); and shall be informed that the student will be given intensive reading instruction until the deficiency is corrected. This subsection operates in addition to the remediation and notification provisions contained in s. 1008.25 and in no way reduces the rights of a parent or the responsibilities of a school district under that section.

(12) **PLEDGE OF ALLEGIANCE.**—A public school student must be excused from reciting the pledge of allegiance upon written request by the student's parent, in accordance with the provisions of s. 1003.44.

(13) **STUDENT RECORDS.**—

(a) **Parent rights.**—Parents have rights regarding the student records of their children, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of s. 1002.22.

(b) **Student rights.**—In accordance with the provisions of s. 1008.386, a student is not required to provide his or her social security number as a condition for enrollment or graduation.

(14) **STUDENT REPORT CARDS.**—Students and their parents have the right to receive student report cards on a regular basis that clearly depict and grade the student's academic performance in each class or course, the student's conduct, and the student's attendance, in accordance with the provisions of s. 1003.33.

(15) **STUDENT PROGRESS REPORTS.**—Parents of public school students shall be apprised at regular intervals of the academic progress and other needed information regarding their child, in accordance with the provisions of s. 1003.02(1)(h)2.

(16) **SCHOOL ACCOUNTABILITY AND SCHOOL IMPROVEMENT RATING REPORTS.**—Parents of public school students are entitled to an

easy-to-read report card about the grade designation, school accountability including the school financial report, and school improvement rating of their child's school in accordance with the provisions of ss. 1008.22, 1003.02(3), and 1010.215(5).

(17) **ATHLETICS; PUBLIC HIGH SCHOOL.**—

(a) **Eligibility.**—Eligibility requirements for all students participating in high school athletic competition must allow a student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, in accordance with the provisions of s. 1006.20(2)(a).

(b) **Medical evaluation.**—Students must satisfactorily pass a medical evaluation each year before participating in athletics, unless the parent objects in writing based on religious tenets or practices, in accordance with the provisions of s. 1006.20(2)(d).

(18) **EXTRACURRICULAR ACTIVITIES.**—In accordance with the provisions of s. 1006.15:

(a) **Eligibility.**—Students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities.

(b) **Home education students.**—Home education students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school.

(c) **Charter school students.**—Charter school students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, unless such activity is provided by the student's charter school.

(d) **Discrimination prohibited.**—Organizations that regulate or govern extracurricular activities of public schools shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

(19) **INSTRUCTIONAL MATERIALS.**—

(a) **Core courses.**—Each public school student is entitled to sufficient instructional materials in the core courses of mathematics, language arts, social studies, science, reading, and literature, in accordance with the provisions of ss. 1003.02(1)(d) and 1006.40(2).

(b) **Curricular objectives.**—The parent of each public school student has the right to receive effective communication from the school principal as to the manner in which instructional materials are used to implement the school's curricular objectives, in accordance with the provisions of s. 1006.28(3)(a).

(c) **Sale of instructional materials.**—Upon request of the parent of a public school student, the school principal must sell to the parent any instruc-

tional materials used in the school, in accordance with the provisions of s. 1006.28(3)(c).

(d) Dual enrollment students.—Instructional materials purchased by a district school board or community college board of trustees on behalf of public school dual enrollment students shall be made available to the dual enrollment students free of charge, in accordance with the provisions of s. 1007.271(14) and (15).

(20) JUVENILE JUSTICE PROGRAMS.—Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.52.

(21) PARENTAL INPUT AND MEETINGS.—

(a) Meetings with school district personnel.—Parents of public school students may be accompanied by another adult of their choice at any meeting with school district personnel.

(b) School district best financial management practice reviews.—Public school students and their parents may provide input regarding their concerns about the operations and management of the school district both during and after the conduct of a school district best financial management practices review, in accordance with the provisions of s. 1008.35.

(c) District school board educational facilities programs.—Parents of public school students and other members of the public have the right to receive proper public notice and opportunity for public com-

ment regarding the district school board's educational facilities work program, in accordance with the provisions of s. 1013.35.

(22) TRANSPORTATION.—

(a) Transportation to school.—Public school students shall be provided transportation to school, in accordance with the provisions of s. 1006.21(3) (a).

(b) Hazardous walking conditions.—K-6 public school students shall be provided transportation if they are subjected to hazardous walking conditions, in accordance with the provisions of ss. 1006.21(3) (b) and 1006.23.

(c) Parental consent.—Each parent of a public school student must be notified in writing and give written consent before the student may be transported in a privately owned motor vehicle to a school function, in accordance with the provisions of s. 1006.22(2)(b).

(23) ORDERLY, DISCIPLINED

CLASSROOMS.—Public school students shall be in orderly, disciplined classrooms conducive to learning without the distraction caused by disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students, in accordance with s. 1003.32.

History.—s. 92, ch. 2002-387; s. 6, ch. 2003-118; s. 32, ch. 2003-391; s. 33, ch. 2004-41; s. 5, ch. 2004-42; s. 77, ch. 2004-357; s. 2, ch. 2005-75; s. 1, ch. 2005-196; s. 14, ch. 2006-74; s. 170, ch. 2007-5; s. 2, ch. 2008-26; s. 2, ch. 2008-147.

### **1002.21 Postsecondary student and parent rights.—**

(1) STUDENT RECORDS.—Parents have rights regarding the student records of their children, and students 18 years of age and older have rights regarding their student records, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of ss. 1002.22, 1005.36, and 1006.52.

(2) LEARNING DISABLED STUDENTS.—Impaired and learning disabled students may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the provisions of ss. 1007.264 and 1007.265.

(3) EXPULSION, SUSPENSION, DISCIPLINE.—Public postsecondary education students may be expelled, suspended, or otherwise disciplined by the president of a public postsecondary educational institution after notice to the student of the charges and a hearing on the charges, in accordance with the provisions of s. 1006.62.

(4) RELIGIOUS BELIEFS.—Public postsecondary educational institutions must provide reasonable accommodations for the religious practices and beliefs of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments,

in accordance with the provisions of s. 1006.53, and must provide and describe in the student handbook a grievance procedure for students to seek redress when they feel they have been unreasonably denied an educational benefit due to their religious beliefs or practices.

(5) STUDENT HANDBOOKS.—Each state university and community college shall provide its students with an up-to-date student handbook that includes student rights and responsibilities, appeals processes available to students, contact persons available to help students, student conduct code, and information regarding HIV and AIDS, in accordance with the provisions of s. 1006.50.

(6) STUDENT OMBUDSMAN OFFICE.—Each state university and community college shall maintain a student ombudsman office and established procedures for students to appeal to the office regarding decisions about the student's access to courses and credit granted toward the student's degree, in accordance with the provisions of s. 1006.51.

History.—s. 93, ch. 2002-387; s. 8, ch. 2003-8.

**1002.22 Student records and reports; rights of parents and students; notification; penalty.—**

(1) PURPOSE.—The purpose of this section is to protect the rights of students and their parents with respect to student records and reports as created, maintained, and used by public educational institutions in the state. The intent of the Legislature is that students and their parents shall have rights of access, rights of challenge, and rights of privacy with respect to such records and reports, and that rules shall be available for the exercise of these rights.

(2) DEFINITIONS.—As used in this section:

(a) “Chief executive officer” means that person, whether elected or appointed, who is responsible for the management and administration of any public educational body or unit, or the chief executive officer’s designee for student records; that is, the district school superintendent, the director of a career center, the president of a public postsecondary educational institution, or their designees.

(b) “Directory information” includes the student’s name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(c) “Records” and “reports” mean official records, files, and data directly related to students that are created, maintained, and used by public educational institutions, including all material that is incorporated into each student’s cumulative record folder and intended for school use or to be available to parties outside the school or school system for legitimate educational or research purposes. Materials that shall be considered as part of a student’s record include, but are not necessarily limited to: identifying data, including a student’s social security number; academic work completed; level of achievement records, including grades and standardized achievement test scores; attendance data; scores on standardized intelligence, aptitude, and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations; verified reports of serious or recurrent behavior patterns; and any other evidence, knowledge, or information recorded in any medium, including, but not limited to, handwriting, typewriting, print, magnetic tapes, film, microfilm, and microfiche, and maintained and used by an educational agency or institution or by a person acting for such agency or institution. However, the terms “records” and “reports” do not include:

1. Records of instructional, supervisory, and administrative personnel, and educational personnel ancillary to those persons, that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a substitute for any of such persons. An example of

records of this type is instructor’s grade books.

2. Records of law enforcement units of the institution that are maintained solely for law enforcement purposes and that are not available to persons other than officials of the institution or law enforcement officials of the same jurisdiction in the exercise of that jurisdiction.

3. Records made and maintained by the institution in the normal course of business that relate exclusively to a student in his or her capacity as an employee and that are not available for use for any other purpose.

4. Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, that are created, maintained, or used only in connection with the provision of treatment to the student and that are not available to anyone other than persons providing such treatment. However, such records shall be open to a physician or other appropriate professional of the student’s choice.

5. Directory information as defined in this section.

6. Other information, files, or data that do not permit the personal identification of a student.

7. Letters or statements of recommendation or evaluation that were confidential under Florida law and that were received and made a part of the student’s educational records prior to July 1, 1977.

8. Copies of the student’s fingerprints. No public educational institution shall maintain any report or record relative to a student that includes a copy of the student’s fingerprints.

(d) “Student” means any child or adult who is enrolled or who has been enrolled in any instructional program or activity conducted under the authority and direction of an institution comprising a part of the state system of public education and with respect to whom an educational institution maintains educational records and reports or personally identifiable information, but does not include a person who has not been in attendance as an enrollee at such institution.

(3) RIGHTS OF PARENT OR STUDENT.—The parent of any student who attends or has attended any public school, career center, or public postsecondary educational institution shall have the following rights with respect to any records or reports created, maintained, and used by any public educational institution in the state. However, whenever a student has attained 18 years of age, or is attending a postsecondary educational institution, the permission or consent required of, and the rights accorded to, the parents of the student shall thereafter be required of and accorded to the student only, unless the student is a dependent student of such parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954). The State Board of Educa-

tion shall adopt rules whereby parents or students may exercise these rights:

(a) Right of access.—

1. Such parent or student shall have the right, upon request directed to the appropriate school official, to be provided with a list of the types of records and reports, directly related to students, as maintained by the institution that the student attends or has attended.

2. Such parent or student shall have the right, upon request, to be shown any record or report relating to such student maintained by any public educational institution. When the record or report includes information on more than one student, the parent or student shall be entitled to receive, or be informed of, only that part of the record or report that pertains to the student who is the subject of the request. Upon a reasonable request therefor, the institution shall furnish such parent or student with an explanation or interpretation of any such record or report.

3. Copies of any list, record, or report requested under the provisions of this paragraph shall be furnished to the parent or student upon request.

4. The State Board of Education shall adopt rules to be followed by all public educational institutions in granting requests for lists, or for access to reports and records or for copies or explanations thereof under this paragraph. However, access to any report or record requested under the provisions of subparagraph 2. shall be granted within 30 days after receipt of such request by the institution. Fees may be charged for furnishing any copies of reports or records requested under subparagraph 3., but such fees shall not exceed the actual cost to the institution of producing such copies.

(b) Right of waiver of access to confidential letters or statements.—A parent or student shall have the right to waive the right of access to letters or statements of recommendation or evaluation, except that such waiver shall apply to recommendations or evaluations only if:

1. The parent or student is, upon request, notified of the names of all persons submitting confidential letters or statements.

2. Such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from, any public agency or public educational institution in this state.

(c) Right to challenge and hearing.—A parent or student shall have the right to challenge the content of any record or report to which such person is granted access under paragraph (a), in order to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to provide an opportunity

for the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained therein. Any challenge arising under the provisions of this paragraph may be settled through informal meetings or discussions between the parent or student and appropriate officials of the educational institution. If the parties at such a meeting agree to make corrections, to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties; and the appropriate school officials shall take the necessary actions to implement the agreement. If the parties cannot reach an agreement, upon the request of either party, a hearing shall be held on such challenge under rules adopted by the State Board of Education. Upon the request of the parent or student, the hearing shall be exempt from the requirements of s. 286.011. Such rules shall include at least the following provisions:

1. The hearing shall be conducted within a reasonable period of time following the request for the hearing.

2. The hearing shall be conducted, and the decision rendered, by an official of the educational institution or other party who does not have a direct interest in the outcome of the hearing.

3. The parent or student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under this paragraph.

4. The decision shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.

5. The appropriate school officials shall take the necessary actions to implement the decision.

(d) Right of privacy.—Every student has a right of privacy with respect to the educational records kept on him or her. Personally identifiable records or reports of a student, and any personal information contained therein, are confidential and exempt from s. 119.07(1). A state or local educational agency, board, public school, career center, or public postsecondary educational institution may not permit the release of such records, reports, or information without the written consent of the student's parent, or of the student himself or herself if he or she is qualified as provided in this subsection, to any individual, agency, or organization. However, personally identifiable records or reports of a student may be released to the following persons or organizations without the consent of the student or the student's parent:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.

2. Other school officials, including teachers within the educational institution or agency, who have legitimate educational interests in the information contained in the records.

3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the United States Department of Education, or in applicable state statutes and rules of the State Board of Education.

4. Other school officials, in connection with a student's application for or receipt of financial aid.

5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

6. Accrediting organizations, in order to carry out their accrediting functions.

7. Early learning coalitions and the Agency for Workforce Innovation in order to carry out their assigned duties.

8. For use as evidence in student expulsion hearings conducted by a district school board under chapter 120.

9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.

10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from s. 119.07(1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.

11.a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

b. A person or entity in accordance with a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the student, or his or her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.

13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of the interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceedings before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

This paragraph does not prohibit any educational institution from publishing and releasing to the general public directory information relating to a student if the institution elects to do so. However, no educational institution shall release, to any individual, agency, or organization that is not listed in subparagraphs 1.-14., directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general. Any educational institution making directory information public shall give public notice of the categories of information

that it has designated as directory information for all students attending the institution and shall allow a reasonable period of time after the notice has been given for a parent or student to inform the institution in writing that any or all of the information designated should not be released.

(4) NOTIFICATION.—Every parent and student entitled to rights relating to student records and reports under the provisions of subsection (3) shall be notified annually, in writing, of such rights and that the institution has a policy of supporting the law; the types of information and data generally entered in the student records as maintained by the institution; and the procedures to be followed in order to exercise such rights. The notification shall be general in form and in a manner to be determined by the State Board of Education and may be incorporated with other printed materials distributed to students, such as being printed on the back of school assignment forms or report cards for students attending kindergarten or grades 1 through 12 in the public school system and being printed in college catalogs or in other program announcement bulletins for students

attending postsecondary educational institutions.

(5) PENALTY.—In the event that any public school official or employee, district school board official or employee, career center official or employee, or public postsecondary educational institution official or employee refuses to comply with any of the provisions of this section, the aggrieved parent or student shall have an immediate right to bring an action in the circuit court to enforce the violated right by injunction. Any aggrieved parent or student who brings such an action and whose rights are vindicated may be awarded attorney's fees and court costs.

(6) APPLICABILITY TO RECORDS OF DEFUNCT INSTITUTIONS.—The provisions of this section also apply to student records that any nonpublic educational institution that is no longer operating has deposited with the district school superintendent in the county where the nonpublic educational institution was located.

History.—s. 94, ch. 2002-387; s. 4, ch. 2004-356; s. 78, ch. 2004-357; s. 13, ch. 2004-484.

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### 1002.23 Family and School Partnership for Student Achievement Act.—

(1) The purpose of the Family and School Partnership for Student Achievement Act is to:

- (a) Provide parents with specific information about their child's educational progress;
- (b) Provide parents with comprehensive information about their choices and opportunities for involvement in their child's education; and
- (c) Provide a framework for building and strengthening partnerships among parents, teachers, principals, district school superintendents, and other personnel.

Each district school board, school district superintendent, and teacher shall fully support and cooperate in implementing a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education.

(2) To facilitate meaningful parent and family involvement, the Department of Education shall develop guidelines for a parent guide to successful student achievement which describes what parents need to know about their child's educational progress and how they can help their child to succeed in school. The guidelines shall include, but need not be limited to:

- (a) Parental information regarding
  - 1. Requirements for their child to be promoted to the next grade, as provided for in s. 1008.25;
  - 2. Progress of their child toward achieving state and district expectations for academic proficiency;
  - 3. Assessment results, including report cards and progress reports;
  - 4. Qualifications of their child's teachers; and

5. School entry requirements, including required immunizations and the recommended immunization schedule;

(b) Services available for parents and their children, such as family literacy services; mentoring, tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs;

(c) Opportunities for parental participation, such as parenting classes, adult education, school advisory councils, and school volunteer programs;

(d) Opportunities for parents to learn about rigorous academic programs that may be available for their child, such as honors programs, dual enrollment, advanced placement, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, Florida Virtual High School courses, and accelerated access to postsecondary education;

(e) Educational choices, as provided for in s. 1002.20(6), and corporate income tax credit scholarships, as provided for in s. 220.187;

(f) Classroom and test accommodations available for students with disabilities;

(g) School board rules, policies, and procedures for student promotion and retention, academic standards, student assessment, courses of study, instructional materials, and contact information for school and district offices; and

(h) Resources for information on student health and other available resources for parents.

(3) The Department of Education shall develop and disseminate a checklist for school districts to provide to parents to assist with the parent's involve-

ment in their child's educational progress. The checklist shall address parental actions that:

- (a) Strengthen the child's academic progress, especially in the area of reading;
  - (b) Strengthen the child's citizenship, especially social skills and respect for others;
  - (c) Strengthen the child's realization of high expectations and setting lifelong learning goals; and
  - (d) Place a strong emphasis on the communication between the school and the home.
- (4) The Department of Education shall establish a parent-response center to provide assistance to parents and families in answering questions and resolving issues related to the child's education.
- (5) Each district school board shall adopt rules that strengthen family involvement and family empowerment. The rules shall be developed in collaboration with parents, school administrators, teachers, and community partners, and shall address:
- (a) Parental choices and responsibilities
  - (b) Links with community services
  - (c) Opportunities for parental involvement in the development, implementation, and evaluation of family involvement programs; and
  - (d) Opportunities for parents to participate on school advisory councils and in school volunteer programs and other activities.
- (6) Beginning with the 2003-2004 school year, each school district shall submit a copy of the rules developed under subsection (5) to the Department of Education by October 1.
- (7) Each school district shall develop and disseminate a parent guide to successful student achievement, consistent with the guidelines of the Department of Education, which addresses what parents need to know about their child's educational progress and how parents can help their child to succeed in school. The guide must:
- (a) Be understandable to students and parents
  - (b) Be distributed to all parents, students, and school personnel at the beginning of each school year;
  - (c) Be discussed at the beginning of each

school year in meetings of students, parents, and teachers;

- (d) Include information concerning services, opportunities, choices, academic standards, and student assessment; and
  - (e) Provide information on the importance of student health and available immunizations and vaccinations, including, but not limited to:
    - 1. A recommended immunization schedule in accordance with United States Centers for Disease Control and Prevention recommendations.
    - 2. Detailed information regarding the causes, symptoms, and transmission of meningococcal disease and the availability, effectiveness, known contraindications, and appropriate age for the administration of any required or recommended vaccine against meningococcal disease, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention.
- The parent guide may be included as a part of the code of student conduct that is required in s. 1006.07(2).

(8) Each school district shall develop and disseminate a checklist of parental actions that can strengthen parental involvement in their child's educational progress, consistent with the requirements in subsection (3). The checklist shall be provided each school year to all parents of students in kindergarten through grade 12 and shall focus on academics, especially reading, high expectations for students, citizenship, and communication.

(9) The State Board of Education shall annually review each school district's compliance with this section and the district's success in achieving improved services for families. The State Board of Education shall use all appropriate enforcement actions, as provided for in s. 1008.32, until the school district fully complies with the requirements of this section.

History.—s. 2, ch. 2003-118; s. 2, ch. 2005-196; s. 1, ch. 2006-246.

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### **1002.36 Florida School for the Deaf and the Blind.—**

(1) **RESPONSIBILITIES.**—The Florida School for the Deaf and the Blind, located in St. Johns County, is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade. The school is a component of the delivery of public education within Florida's K-20 education system and shall be funded through the Department of Education. The school shall provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Unless otherwise provided by law, the school shall comply

with all laws and rules applicable to state agencies. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and to district school boards upon request. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the William L. Boyd, IV, Florida Resident Access Grant Program as provided in s. 1009.89.

(2) **MISSION.**—The mission of the Florida School for the Deaf and the Blind is to utilize all available talent, energy, and resources to provide free appropriate public education for eligible sensory-impaired students of Florida. As a school of academic excellence, the school shall strive to provide students an opportunity to access education services in a caring, safe, unique learning environ-

ment to prepare them to be literate, employable, and independent lifelong learners. The school shall provide outreach services that include collaboration with district school boards and shall encourage input from students, staff, parents, and the community. As a diverse organization, the school shall foster respect and understanding for each individual.

(3) AUDITS.—The Auditor General shall conduct annual audits of the accounts and records of the Florida School for the Deaf and the Blind. The Department of Education’s Inspector General is authorized to conduct investigations at the school as provided in s. 1001.20(4)(e).

(4) BOARD OF TRUSTEES.—

(a) There is hereby created a Board of Trustees for the Florida School for the Deaf and the Blind which shall consist of seven members. Of these seven members, one appointee shall be a blind person and one appointee shall be a deaf person. Each member shall have been a resident of the state for a period of at least 10 years. Their terms of office shall be 4 years. The appointment of the trustees shall be by the Governor with the confirmation of the Senate. The Governor may remove any member for cause and shall fill all vacancies that occur.

(b) The board of trustees shall elect a chair annually. The trustees shall be reimbursed for travel expenses as provided in s. 112.061, the accounts of which shall be paid by the Chief Financial Officer upon itemized vouchers duly approved by the chair.

(c) The board of trustees has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law relating to operation of the Florida School for the Deaf and the Blind. Such rules shall be submitted to the State Board of Education for approval or disapproval. After a rule is approved by the State Board of Education, the rule shall be filed immediately with the Department of State. The board of trustees shall act at all times in conjunction with the rules of the State Board of Education.

(d) The board of trustees is a body corporate and shall have a corporate seal. Unless otherwise provided by law, all actions of the board of trustees shall be consistent with all laws and rules applicable to state agencies. Title to any gift, donation, or bequest received by the board of trustees pursuant to subparagraph (e)11. shall vest in the board of trustees. Title to all other property and other assets of the Florida School for the Deaf and the Blind shall vest in the State Board of Education, but the board of trustees shall have complete jurisdiction over the management of the school.

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other employees and remove the same as in its judgment may be best and fix their compensation.
2. Procure professional services, such as medical, mental health, architectural, and engineering.
3. Procure legal services without the prior writ-

ten approval of the Attorney General.

4. Determine eligibility of students and procedure for admission.

5. Provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the health and comfort of the students without cost to their parents, except that the board of trustees may set tuition and other fees for nonresidents.

6. Provide for the proper keeping of accounts and records and for budgeting of funds.

7. Enter into contracts.

8. Sue and be sued.

9. Secure public liability insurance.

10. Do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.

11. Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. If the bill of sale, will, trust indenture, deed, or other legal conveyance specifies terms and conditions concerning the use of such money or property, the board of trustees shall observe such terms and conditions.

12. Deposit outside the State Treasury such moneys as are received as gifts, donations, or bequests and may disburse and expend such moneys, upon its own warrant, for the use and benefit of the Florida School for the Deaf and the Blind and its students, as the board of trustees deems to be in the best interest of the school and its students. Such money or property shall not constitute or be considered a part of any legislative appropriation.

13. Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

14. Invest such moneys in securities enumerated under s. 215.47(1), (2)(c), (3), (4), and (9), and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

(f) The board of trustees shall:

1. Prepare and submit legislative budget requests for operations and fixed capital outlay, in accordance with chapter 216 and ss. 1011.56 and 1013.60, to the Department of Education for review and approval. The department must analyze the amount requested for fixed capital outlay to determine if the request is consistent with the school’s campus master plan, educational plant survey, and facilities master plan. Projections of facility space

needs may exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

2. Approve and administer an annual operating budget in accordance with ss. 1011.56 and 1011.57.

3. Require all funds received other than gifts, donations, bequests, funds raised by or belonging to student clubs or student organizations, and funds held for specific students or in accounts for individual students to be deposited in the State Treasury and expended as authorized in the General Appropriations Act.

4. Require all purchases to be in accordance with the provisions of chapter 287 except for purchases made with funds received as gifts, donations, or bequests; funds raised by or belonging to student clubs or student organizations; or funds held for specific students or in accounts for individual students.

5. Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 110, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

6. Give preference in appointment and retention in positions of employment as provided within s. 295.07(1).

7. Ensure that the Florida School for the Deaf and the Blind complies with s. 1013.351 concerning the coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

8. Ensure that the Florida School for the Deaf and the Blind complies with s. 112.061 concerning per diem and travel expenses of public officers, employees, and authorized persons with respect to all funds other than funds received as gifts, donations, or bequests; funds raised by or belonging to student clubs or student organizations; or funds held for specific students or in accounts for individual students.

9. Adopt a master plan which specifies the mission and objectives of the Florida School for the Deaf and the Blind. The plan shall include, but not be limited to, procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan shall be for a period of 5 years and shall be reviewed for needed modifications every 2 years. The board of trustees shall submit the initial plan and subsequent modifications to the Speaker of the House of Representatives and the President of the Senate.

10. Designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to

the late Senator Verle Allyn Pope.

(5) **STUDENT AND EMPLOYEE PERSONNEL RECORDS.**—The Board of Trustees for the Florida School for the Deaf and the Blind shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 1002.22. Employee personnel records shall be subject to the provisions of s. 1012.31.

(6) **LEGAL SERVICES.**—The Board of Trustees for the Florida School for the Deaf and the Blind may provide legal services for officers and employees of the board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities. The board of trustees may provide for reimbursement of reasonable expenses for legal services for officers and employees of said board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities upon successful defense by the officer or employee. However, in any case in which the officer or employee pleads guilty or nolo contendere or is found guilty of any such action, the officer or employee shall reimburse the board of trustees for any legal services that the board of trustees may have supplied pursuant to this section. The board of trustees may also reimburse an officer or employee thereof for any judgment that may be entered against him or her in a civil action arising out of and in the course of the performance of his or her assigned duties and responsibilities. Each expenditure by the board of trustees for legal defense of an officer or employee, or for reimbursement pursuant to this section, shall be made at a public meeting with notice pursuant to s. 120.525(1). The providing of such legal services or reimbursement under the conditions described in this subsection is declared to be a school purpose for which school funds may be expended.

(7) **PERSONNEL SCREENING.**—

(a) The Board of Trustees of the Florida School for the Deaf and the Blind shall, because of the special trust or responsibility of employees of the school, require all employees and applicants for employment to undergo personnel screening and security background investigations as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, as a condition of employment and continued employment. The cost of a personnel screening and security background investigation for an employee of the school shall be paid by the school. The cost of such a screening and investigation for an applicant for employment may be paid by the school.

(b) As a prerequisite for initial and continuing employment at the Florida School for the Deaf and the Blind:

1. The applicant or employee shall submit to the Florida School for the Deaf and the Blind a com-

plete set of fingerprints taken by an authorized law enforcement agency or an employee of the Florida School for the Deaf and the Blind who is trained to take fingerprints. The Florida School for the Deaf and the Blind shall submit the fingerprints to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing.

2.a. The applicant or employee shall attest to the minimum standards for good moral character as contained in chapter 435, using the level 2 standards set forth in that chapter under penalty of perjury.

b. New personnel shall be on a probationary status pending a determination of compliance with such minimum standards for good moral character. This paragraph is in addition to any probationary status provided for by Florida law or Florida School for the Deaf and the Blind rules or collective bargaining contracts.

3. The Florida School for the Deaf and the Blind shall review the record of the applicant or employee with respect to the crimes contained in s. 435.04 and shall notify the applicant or employee of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the applicant or employee, upon request of the Florida School for the Deaf and the Blind, to obtain and supply within 30 days the missing disposition information to the Florida School for the Deaf and the Blind. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification of an applicant and automatic termination of an employee.

4. After an initial personnel screening and security background investigation, written notification shall be given to the affected employee within a reasonable time prior to any subsequent screening and investigation.

(c) The Florida School for the Deaf and the Blind may grant exemptions from disqualification as provided in s. 435.07.

(d) The Florida School for the Deaf and the Blind may not use the criminal records, private investigator findings, or information reference checks obtained by the school pursuant to this section for any purpose other than determining if a person meets the minimum standards for good moral character for personnel employed by the school. The criminal records, private investigator findings, and information from reference checks obtained by the Florida School for the Deaf and the Blind for determining the moral character of employees of the school are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation,

impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.

2. Use the criminal records, private investigator findings, or information from reference checks obtained under this section or information obtained from such records or findings for purposes other than screening for employment or release such information or records to persons for purposes other than screening for employment.

(f) For the purpose of teacher certification, the Florida School for the Deaf and the Blind shall be considered a school district.

(g) For purposes of protecting the health safety, or welfare of students, the Florida School for the Deaf and the Blind is considered a school district and must, except as otherwise provided in this section, comply with ss. 1001.03, 1001.42, 1001.51, 1006.061, 1012.27, 1012.315, 1012.32, 1012.33, 1012.56, 1012.795, and 1012.796.

(8) CAMPUS POLICE.—

(a) The Board of Trustees for the Florida School for the Deaf and the Blind is permitted and empowered to employ police officers for the school, who must be designated Florida School for the Deaf and the Blind campus police.

(b) Each Florida School for the Deaf and the Blind campus police officer is a law enforcement officer of the state and a conservator of the peace who has the authority to arrest, in accordance with the laws of this state, any person for a violation of state law or applicable county or municipal ordinance if that violation occurs on or in any property or facilities of the school. A campus police officer may also arrest a person off campus for a violation committed on campus after a hot pursuit of that person which began on campus. A campus police officer shall have full authority to bear arms in the performance of the officer's duties and carry out a search pursuant to a search warrant on the campus. Florida School for the Deaf and the Blind campus police, upon request of the sheriff or local police authority, may serve subpoenas or other legal process and may make arrests of persons against whom arrest warrants have been issued or against whom charges have been made for violations of federal or state laws or county or municipal ordinances. Campus police officers shall have authority to enforce traffic laws within the boundaries of the campus in accordance with s. 316.640.

(c) The campus police shall promptly deliver all persons arrested and charged with felonies to the sheriff of the county within which the school is located and all persons arrested and charged with misdemeanors to the applicable authority as provided by law, but otherwise to the sheriff of the county in which the school is located.

(d) The campus police must meet the mini-

minimum standards established by the Criminal Justice Standards and Training Commission of the Department of Law Enforcement and chapter 943 for law enforcement officers. Each campus police officer must, before entering into the performance of the officer's duties, take the oath of office established by the board of trustees. The board of trustees must provide a uniform set of identifying credentials to each campus police officer it employs.

(e) In performance of any of the powers, duties, and functions authorized by law, campus police have the same rights, protections, and immunities afforded other law enforcement officers.

(f) The board of trustees shall adopt rules, including, without limitation, rules for the appointment, employment, and removal of campus police in accordance with the State Career Service System and shall establish in writing a policy manual, that includes, without limitation, procedures for managing routine law enforcement situations and emergency law enforcement situations. The board of trustees shall furnish a copy of the policy manual to each of the campus police officers it employs. A campus po-

lice officer appointed by the board of trustees must have completed the training required by the school in the special needs and proper procedures for dealing with students served by the school.

(9) REPORT OF CAMPUS CRIME STATISTICS.—

(a) The school shall prepare an annual report of statistics of crimes committed on its campus and shall submit the report to the board of trustees and the Commissioner of Education. The data for these reports may be taken from the annual report of the Department of Law Enforcement. The board of trustees shall prescribe the form for submission of these reports.

(b) The school shall prepare annually a report of statistics of crimes committed on its campus for the preceding 3 years. The school shall give students and prospective students notice that this report is available upon request.

History.—s. 101, ch. 2002-387; s. 1944, ch. 2003-261; s. 65, ch. 2004-267; s. 3, ch. 2004-331; s. 1, ch. 2006-132; s. 4, ch. 2006-205; s. 15, ch. 2008-108.

**1002.361 Florida School for the Deaf and the Blind; direct-support organization; authority.—**

(1) The board of trustees of the Florida School for the Deaf and the Blind may establish a direct-support organization that is:

(a) A Florida corporation, not for profit, incorporated under chapter 617 and approved by the Secretary of State.

(b) Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the Florida School for the Deaf and the Blind or the board of trustees.

(c) An organization that the board of trustees, after review, has certified to be operating in a manner consistent with the goals of the Florida School for the Deaf and the Blind and the board of trustees and in the best interests of the state. Unless so certified, the organization may not use the name of the Florida School for the Deaf and the Blind.

(2) The direct-support organization shall operate under written contract with the board of trustees. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the board of trustees.

(b) Submission of an annual budget for the approval of the board of trustees. The budget must comply with rules adopted by the board of trustees.

(c) Certification by the board of trustees that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the board and in the best interest of the state. The certification must be made annually and reported in the official minutes of a meeting of the board of trustees.

(d) The reversion to the board of trustees, or to the state if the Florida School for the Deaf and the Blind or the board of trustees ceases to exist, of moneys and property held in trust by the direct-support organization for the benefit of the Florida School for the Deaf and the Blind or the board of trustees, if the direct-support organization is no longer approved to operate for the Florida School for the Deaf and the Blind or board of trustees or if the Florida School for the Deaf and the Blind or the board of trustees ceases to exist.

(e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

(f) The disclosure of material provisions of the contract and of the distinction between the board of trustees and the direct-support organization to donors of gifts, contributions, or bequests, and the disclosure on all promotional and fundraising publications.

(3) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981. The board of trustees and Auditor General may require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization.

(4) The chair of the board of trustees and the chief administrative employee of the Florida School for the Deaf and the Blind shall be directors of the direct-support organization and shall jointly name, at a minimum, three other individuals to serve as directors of the organization.

(5) The board of trustees may authorize the direct-support organization established in this section to use property of the Florida School for the Deaf and the Blind or of the board of trustees, except

money, and use facilities and personal services subject to this section. If the direct-support organization does not provide equal employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin, it may not use the property, facilities, or personal services of the Florida School for the Deaf and the Blind or of the board of trustees. For the purposes of this section, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing

as prescribed by rule of the board of trustees. The board of trustees shall adopt rules prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property, facilities, or personal services of the Florida School for the Deaf and the Blind or of the board of trustees.

History.—s. 6, ch. 2004-331.

**1002.38 Opportunity Scholarship Program.—**

(1) FINDINGS AND INTENT.—The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work. The Legislature recognizes that the voters of the State of Florida, in the November 1998 general election, amended s. 1, Art. IX of the Florida Constitution so as to make education a paramount duty of the state. The Legislature finds that the State Constitution requires the state to provide a uniform, safe, secure, efficient, and high-quality system which allows the opportunity to obtain a high-quality education. The Legislature further finds that a student should not be compelled, against the wishes of the student's parent, to remain in a school found by the state to be failing for 2 years in a 4-year period. The Legislature shall make available opportunity scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent chooses to apply the equivalent of the public education funds generated by his or her child to the cost of tuition in the eligible private school as provided in paragraph (6)(a). Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose, as delineated in subsection (4).

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—A public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

(a)1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated pursuant to s. 1008.34 as performance grade category "F," failing to make adequate progress, and that has had 2 school years in a 4-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect;

2. The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or

3. The student is entering kindergarten or first

grade and has been notified that the student has been assigned to such school for the next school year.

(b) The parent has obtained acceptance for admission of the student to a private school eligible for the program pursuant to subsection (4), and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The provisions of this section shall not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade category designation of "C" or better. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent may remove the student from the private school and place the student in a public school, as provided in subparagraph (3)(a)2.

(3) SCHOOL DISTRICT OBLIGATIONS.—

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "F" for 2 school years in a 4-year period:

1. Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this section.

2. Offer that student's parent an opportunity to enroll the student in the public school within the district that has been designated by the state pursuant to s. 1008.34 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(b) The parent of a student enrolled in or

assigned to a school that has been designated performance grade category "F" for 2 school years in a 4-year period may choose as an alternative to enroll the student in and transport the student to a higher-performing public school that has available space in an adjacent school district, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(c) For students in the school district who are participating in the state Opportunity Scholarship Program, the school district shall provide locations and times to take all statewide assessments required pursuant to s. 1008.22.

(d) Students with disabilities who are eligible to receive services from the school district under federal or state law, and who participate in this program, remain eligible to receive services from the school district as provided by federal or state law.

(e) If for any reason a qualified private school is not available for the student or if the parent chooses to request that the student be enrolled in the higher performing public school, rather than choosing to request the state opportunity scholarship, transportation costs to the higher performing public school shall be the responsibility of the school district. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose.

(4) PRIVATE SCHOOL ELIGIBILITY.— To be eligible to participate in the Opportunity Scholarship Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the Opportunity Scholarship Program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Accept scholarship students on an entirely random and religious-neutral basis without regard

to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(f) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent for meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.

(g) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(h) Comply with all state statutes relating to private schools.

(i) Accept as full tuition and fees the amount provided by the state for each student.

(j) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship.

(k) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPATION.—

(a) Any student participating in the Opportunity Scholarship Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(b) The parent of each student participating in the Opportunity Scholarship Program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(c) The parent shall ensure that the student participating in the Opportunity Scholarship Program takes all statewide assessments required pursuant to s. 1008.22.

(d) A participant who fails to comply with this subsection shall forfeit the opportunity scholarship.

(6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.—

(a) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, the calculated amount shall include the per-student share of instructional materials funds, technology funds, and other categorical funds as

provided for this purpose in the General Appropriations Act.

(b) The amount of the opportunity scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. Fees eligible shall include textbook fees, lab fees, and other fees related to instruction, including transportation.

(c) The school district shall report all students who are attending a private school under this program. The students attending private schools on opportunity scholarships shall be reported separately from those students reported for purposes of the Florida Education Finance Program.

(d) The public or private school that provides services to students with disabilities shall receive the weighted funding for such services at the appropriate funding level consistent with the provisions of s. 1011.62(1)(e).

(e) For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the appropriate basic cost factor if:

1. The student currently participates in a Group I program funded at the basic cost factor and is not subsequently identified as having a disability; or

2. The student currently participates in a Group II program and the parent has chosen a private school that does not provide the additional services funded by the Group II program.

(f) Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount from the Florida Education Finance Program and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to

the parents of participating students.

(g) Upon proper documentation reviewed and approved by the Department of Education, the Chief Financial Officer shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

(7) LIABILITY.—No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

(8) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Rules shall include penalties for noncompliance with subsections (3) and (5). However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

History.—s. 103, ch. 2002-387; s. 1945, ch. 2003-261; s. 79, ch. 2004-357.

**1002.39 The John M. McKay Scholarships for Students with Disabilities Program.**—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual educational plan has been written in accordance with rules of the State Board of Education. Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability,

including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) The student has spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. Prior school year in attendance means that the student was:

1. Enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12, which shall include time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

2. Enrolled and reported by the Florida School for the Deaf and the Blind during the preceding

October and February student membership surveys in kindergarten through grade 12; or

3. Enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys, was at least 4 years old when so enrolled and reported, and was eligible for services under s. 1003.21(1)(e).

However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders is exempt from this paragraph but must meet all other eligibility requirements to participate in the program.

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (8) and has requested from the department a scholarship at least 60 days prior to the date of the first scholarship payment. The request must be through a communication directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department of Education must notify the district of the parent's intent upon receipt of the parent's request.

(3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a John M. McKay Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Receiving a corporate income tax credit scholarship under s. 220.187;

(c) Receiving an educational scholarship pursuant to this chapter;

(d) Participating in a home education program as defined in s. 1002.01(1);

(e) Participating in a private tutoring program pursuant to s. 1002.43;

(f) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year;

(g) Enrolled in the Florida School for the Deaf and the Blind; or

(h) Not having regular and direct contact with his or her private school teachers at the school's physical location.

(4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

(a) For purposes of continuity of educational choice, a John M. McKay Scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first.

(b) Upon reasonable notice to the department and the school district, the student's parent may remove the student from the private school and place

the student in a public school in accordance with this section.

(c) Upon reasonable notice to the department, the student's parent may move the student from one participating private school to another participating private school.

(5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

(a)1. By April 1 of each year and within 10 days after an individual education plan meeting, a school district shall notify the parent of the student of all options available pursuant to this section, inform the parent of the availability of the department's telephone hotline and Internet website for additional information on John M. McKay Scholarships, and offer that student's parent an opportunity to enroll the student in another public school within the district.

2. The parent is not required to accept the offer of enrolling in another public school in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school.

3. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the district school board's choice plan under s. 1002.31.

(b)1. For a student with disabilities who does not have a matrix of services under s. 1011.62(1)(e), the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year.

2.a. Within 10 school days after it receives notification of a parent's request for a John M. McKay Scholarship, a school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for a John M. McKay Scholarship. This notice should include the required completion date for the matrix.

b. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the department of the student's matrix level within 30 days after receiving notification of a request to participate in the scholarship program. The school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

c. The department shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level.

d. A school district may change a matrix of

services only if the change is to correct a technical, typographical, or calculation error.

(c) A school district shall provide notification to parents of the availability of a reevaluation at least every 3 years of each student who receives a John M. McKay Scholarship.

(d) If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the department 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

(e) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(f) For a student who participates in the John M. McKay Scholarships for Students with Disabilities Program whose parent requests that the student take the statewide assessments under s. 1008.22, the district in which the student attends private school shall provide locations and times to take all statewide assessments.

(6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Establish a toll-free hotline that provides parents and private schools with information on participation in the John M. McKay Scholarships for Students with Disabilities Program.

(b) Annually verify the eligibility of private schools that meet the requirements of subsection (8).

(c) Establish a process by which individuals may notify the department of any violation by a parent, private school, or school district of state laws relating to program participation. The department shall conduct an inquiry of any written complaint of a violation of this section, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this section or any rule adopted by the State Board of Education has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation from the complainant. A department inquiry is not subject to the requirements of chapter 120.

(d) Require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain such records.

(e) Cross-check the list of participating scholarship students with the public school enrollment lists prior to each scholarship payment to avoid duplication.

(f)1. Conduct random site visits to private schools participating in the John M. McKay Scholarships for Students with Disabilities Program. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results, which information is required by rules of the State Board of Education, subsection (8), and s. 1002.421. The Department of Education may not make more than three random site visits each year and may not make more than one random site visit each year to the same private school.

2. Annually, by December 15, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section and s. 1002.421, any substantiated allegations or violations of law or rule by an eligible private school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

(7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

(a) The Commissioner of Education shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the commissioner may issue a notice of noncompliance which shall provide the private school with a timeframe within which to provide evidence of compliance prior to taking action to suspend or revoke the private school's participation in the scholarship program.

(b) The commissioner's determination is subject to the following:

1. If the commissioner intends to deny, suspend, or revoke a private school's participation in the scholarship program, the department shall notify the private school of such proposed action in writing by certified mail and regular mail to the private school's address of record with the department. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this paragraph.

2. The private school that is adversely affected by the proposed action shall have 15 days from receipt of the notice of proposed action to file

with the department's agency clerk a request for a proceeding pursuant to ss. 120.569 and 120.57. If the private school is entitled to a hearing under s. 120.57(1), the department shall forward the request to the Division of Administrative Hearings.

3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

(c) The commissioner may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, or welfare of the students; or

2. Fraudulent activity on the part of the private school. Notwithstanding s. 1002.22(3), in incidents of alleged fraudulent activity pursuant to this section, the Department of Education's Office of Inspector General is authorized to release personally identifiable records or reports of students to the following persons or organizations:

a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

b. A person or entity authorized by a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

c. Any person, entity, or authority issuing a subpoena for law enforcement purposes when the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

The commissioner's order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in paragraph (b).

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school may be sectarian or nonsectarian and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the department all documentation required for a student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Cooperating with the scholarship student whose parent chooses to participate in the statewide assessments pursuant to s. 1008.22.

(d) Maintain in this state a physical location where a scholarship student regularly attends classes.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the department.

(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school.

(a) The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the John M. McKay Scholarships for Students with Disabilities Program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.

(d) Each parent and each student has an obligation to the private school to comply with the private school's published policies.

(e) If the parent requests that the student participating in the John M. McKay Scholarships for Students with Disabilities Program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. The maximum scholarship granted for an

eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

3. The calculated scholarship amount for a student who is eligible under subparagraph (2)(a)2. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

4. Until the school district completes the matrix required by paragraph (5)(b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c)1. The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

2. For program participants who are eligible under subparagraph (2)(a)2., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:

a. Report to the department all such students who are attending a private school under this program.

b. Be held harmless for such students from the weighted enrollment ceiling for group 2 programs in

s. 1011.62(1)(d)3.b. during the first school year in which the students are reported.

(d) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be transferred from any funding provided to the Florida School for the Deaf and the Blind for program participants who are eligible under subparagraph (2)(a)2. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the John M. McKay Scholarship calculated pursuant to paragraph (b) shall be transferred from the school district in which the student last attended a public school prior to commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the department must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(e) Upon notification by the department that it has received the documentation required under paragraph (d), the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the department to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(f) Subsequent to each scholarship payment, the department shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

(11) LIABILITY.—No liability shall arise on the part of the state based on the award or use of a John M. McKay Scholarship.

(12) SCOPE OF AUTHORITY.—The inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(13) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules that school districts must use to expedite the development of a matrix of services based on an active individual education plan from another state or a foreign country for a transferring student with a disability who is a dependent child of a member of the United States Armed Forces. The rules must identify the appropriate school district personnel who must complete the matrix of services. For purposes of these rules, a transferring student with a disability is one who was previously enrolled as a student with a disability in an out-of-state or an out-of-country

**1002.42 Private schools.—**

(1) DEFINITION.—A “private school” is defined in s. 1002.01.

(2) ANNUAL PRIVATE SCHOOL SURVEY.—

(a) The Department of Education shall organize, maintain, and annually update a database of educational institutions within the state coming within the provisions of this section. There shall be included in the database of each institution the name, address, and telephone number of the institution; the type of institution; the names of administrative officers; the enrollment by grade or special group (e.g., career education and exceptional child education); the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and such data as may be needed to meet the provisions of this section and s. 1003.23(2).

(b) For the purpose of organizing, maintaining, and updating this database, each private school shall annually execute and file a database survey form on a date designated by the Department of Education which shall include a notarized statement ascertaining that the owner of the private school has complied with the provisions of paragraph (c). For the purpose of this section, “owner” means any individual who is the chief administrative officer of a private school.

(c)1. Notwithstanding the provisions of paragraph (h), each person who is an owner or who establishes, purchases, or otherwise becomes an owner of a private school shall, within 5 days of assuming ownership of a school, file with the Department of Law Enforcement a complete set of fingerprints for state processing and checking for criminal background. The fingerprints shall be taken by an authorized law enforcement officer or an employee of the school who is trained to take fingerprints. The costs of fingerprinting, criminal records checking, and processing shall be borne by the applicant or private school. The result of the criminal records checking by the Department of Law Enforcement shall be forwarded to the owner of the private school and shall be made available for public inspection in the private school office as soon as it is received.

public or private school or agency program and who is transferring from out of state or from a foreign country pursuant to a parent’s permanent change of station orders.

History.—s. 104, ch. 2002-387; s. 1946, ch. 2003-261; s. 11, ch. 2004-230; s. 1, ch. 2006-75; s. 1, ch. 2006-126; s. 177, ch. 2008-4; s. 2, ch. 2008-204.

<sup>1</sup>Note.—As amended by s. 1, ch. 2006-75. For a description of multiple acts in the same session affecting a statutory provision, see preface to the Florida Statutes, “Statutory Construction.” Subparagraph 3. was also amended by s. 1, ch. 2006-126, and that version reads:

3. The calculated scholarship amount for a student who has spent the prior school year in attendance at the Florida School for the Deaf and the Blind shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

2. It shall be unlawful for a person who has been convicted of a crime involving moral turpitude to own or operate a private school.

3. An owner of a private school may require school employees to file a complete set of fingerprints with the Department of Law Enforcement for processing and criminal records checking. Findings from such processing and checking shall be reported to the owner for use in employment decisions.

4. Owners or employees of private schools who have been fingerprinted pursuant to this paragraph, s. 1012.32, or s. 402.3055 shall not be required to be re-fingerprinted if they have not been unemployed or unassociated with a private school or child care facility for more than 90 days.

5. Persons holding a valid Florida teaching certificate who have been fingerprinted pursuant to s. 1012.35 shall not be required to comply with the provisions of this paragraph.

(d) The data inquiries to be included and answered in the survey required in paragraph (b) shall be limited to matters set forth in paragraph (a). The department shall furnish annually to each school sufficient copies of this form.

(e) To ensure completeness and accuracy of the database, each existing private educational institution falling within the provisions of this section shall notify the Department of Education of any change in the name of the institution, the address, or the chief administrative officer. Each new institution shall notify the department of its establishment.

(f) Annually, the department shall make accessible to the public data on private education in this state. Such data shall include that collected pursuant to paragraph (a) and from other sources.

(g) The failure of any institution to submit the annual database survey form and notarized statement of compliance with the provisions of paragraph (c), as required by this section, shall be judged a misdemeanor and, upon conviction, proper authorities of such institution shall be subject to a fine not exceeding \$500. Submission of data for a non-existent school or an institution providing no instruction or training, the purpose of which is to defraud the public, is unlawful and the person or persons

responsible commit a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Persons found to be in violation of subparagraph (c)2. commit a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(h) It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.

(3) RETENTION OF RECORDS.—

(a) As used in this subsection:

1. “Defunct private school” means any private school that has terminated the operation of an education or training program, or that has no students in attendance, or that has dissolved as a business entity.

2. “Student records” means those records, files, documents, and other materials that contain information directly related to students that are maintained by a private school or by a person acting for such institution and that are accessible to other professional personnel to facilitate the instruction, guidance, and educational progress of students. Information contained in student records shall be classified as follows:

a. Permanent information, which includes verified information of clear educational importance, containing the following: student’s full name and any known changes thereto due to marriage or adoption; authenticated birthdate, place of birth, race, and sex; last known address of student; names of student’s parents; name and location of last school attended; number of days present and absent; date enrolled; date withdrawn; courses taken and record of achievement; and date of graduation or program achievement.

b. Temporary information, which includes verified information subject to change, containing, but not limited to, the following: health information, standardized test scores, honors and activities, personal attributes, work experience, teacher and counselor comments, and special reports.

(b) All private schools that become defunct shall transfer all permanent information contained in student records to the district school superintendent of the public school district in which the private school was located; or, if the private school is a member of a private school system or association,

such school may transfer such records to the principal office of such system or association, which shall constitute full compliance with this subsection. In the event that such private school system or association becomes defunct, it shall transfer all the permanent information contained in its files to the district school superintendent of the public school district in which the private school was located.

(c) All private schools that become defunct shall notify the Department of Education Office of Private Schools and Home Education Programs of the date of transfer of student records, the location of storage, the custodian of such records, and the number of records to be stored. The department shall act as a clearinghouse and maintain a registry of such transfers of student records.

(d) It is not the intent of the Legislature to limit or restrict the use or possession of any student records while a school is operational, but to facilitate access to academic records by former students seeking to continue their education or training after a private school has become defunct.

(4) ATTENDANCE RECORDS AND REPORTS.—All officials, teachers, and other employees in parochial, religious, denominational, and private schools shall keep and prepare records in accordance with the provisions of s. 1003.23(2).

(5) SCHOOL-ENTRY HEALTH EXAMINATIONS.—The governing authority of each private school shall require students to present a certification of a school-entry health examination in accordance with the provisions of s. 1003.22(1) and (2).

(6) IMMUNIZATIONS.—The governing authority of each private school shall:

(a) Require students to present a certification of immunization in accordance with the provisions of s. 1003.22(3)-(11).

(b) Provide information on the importance of student health and available immunizations and vaccinations, including, but not limited to:

1. A recommended immunization schedule in accordance with United States Centers for Disease Control and Prevention recommendations.

2. Detailed information regarding the causes, symptoms, and transmission of meningococcal disease and the availability, effectiveness, known contraindications, and appropriate age for the administration of any required or recommended vaccine against meningococcal disease, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention.

(7) ATTENDANCE REQUIREMENTS.—Attendance of a student at a private, parochial, religious, or denominational school satisfies the attendance requirements of ss. 1003.01(13) and 1003.21(1).

(8) ATHLETIC COMPETITION.—A private school may participate in athletic competition with a

public high school in accordance with the provisions of s. 1006.20(1).

(9) RECEIPT OF EDUCATIONAL MATERIALS.—The Department of Education may disseminate educational materials and sell copies for educational use to private schools pursuant to s. 1006.39.

(10) INSTRUCTIONAL MATERIALS.—District school boards may dispose of instructional materials when they become unserviceable or surplus or are no longer on state contract by giving them to a private school in accordance with the provisions of s. 1006.41.

(11) DIAGNOSTIC AND RESOURCE CENTERS.—Diagnostic and resource centers may provide testing and evaluation services to private school students in accordance with the provisions of s. 1006.03(3).

(12) EXCEPTIONAL EDUCATION SERVICES.—District school boards may provide instruction for an appropriate program of special instruction, facilities, and services for exceptional students through contractual arrangements with approved private schools in accordance with the provisions of s. 1003.57.

(13) PROFESSIONAL DEVELOPMENT SYSTEM.—An organization of private schools that has no fewer than 10 member schools in this state may develop a professional development system to be filed with the Department of Education in accordance with the provisions of s. 1012.98(6).

(14) BUS DRIVER TRAINING.—Private school bus drivers may participate in a district school board's bus driver training program, if the district school board makes the program available pursuant to s. 1012.45(4).

(15) POOL PURCHASE OF SCHOOL BUSES.—

(a) Florida private schools that demonstrate a racially nondiscriminatory student admission policy may purchase school buses from the state pool purchase program as authorized in s. 1006.27(1), if the private school meets the following conditions:

1. Students in one or more grades, kindergarten through grade 12, are provided an education program by the school and the school has submitted the information required pursuant to this section and the most recent school survey required in subsection (2).

2. All conditions of the contracts for purchasing school buses between the Department of Education and the companies involved, including bus specifications, ordering deadlines, delivery period and procedures, and payment requirements, shall be met.

3. Purchase orders shall be made out to the appropriate company or companies involved and shall be accompanied by a certified check in the amount of 25 percent of the total cost of the bus or buses as a good faith deposit that the bus or buses

will be purchased.

4. The remainder of the total cost shall be paid upon delivery of the bus or buses to the representative of the private school receiving the bus or buses, or shall be paid when the company informs the purchaser that the buses are ready for delivery if the purchaser has specified that buses are to be picked up at the company's location. If the chassis and the body are purchased from different companies, the remainder of the chassis' total cost shall be payable upon delivery of the chassis to the body manufacturer.

5. If the private school does not meet the obligation stated in subparagraph 4. within 30 calendar days after notice that the bus is ready for delivery or that the chassis has been delivered to the body manufacturer, the selling company may retain 15 percent of the amount being held by the company as a good faith deposit, and all obligations to the private school may be canceled. When the 15 percent is retained, the company shall return 10 percent of the good faith deposit to the nonpublic school within 15 days of cancellation of the companies' objection.

(b) Any bus purchased under this section may not be sold, if still titled as a motor vehicle, within 5 calendar years of the date of the initial Florida title being issued, unless the following conditions are met:

1. The bus or buses may be sold only to a Florida public school district or Florida private school. Any such sale during the first 5 years shall be documented to the Department of Education within 15 days after the sale.

2. The bus or buses shall be advertised by the private school in one major newspaper located in each of the five regions of the state for 3 consecutive days and a copy of the advertisement and the name of each newspaper shall be sent to the Department of Education before the first day of advertising the bus or buses for sale.

3. The bus may not be sold at a profit. The bus shall be depreciated at a rate of 10 percent per calendar year, with the first year starting on the date of issue of the initial title in this state.

4. Notwithstanding any other provisions of law and rule regarding purchase of used school buses, the bus may be sold to a public school district if the conditions of subparagraph 3. are met.

5. Any public school district or private school purchasing a bus under the conditions of this subsection must accept the obligations of this subsection, and such shall be entered in the sales contract.

(c) Any private school, including the owner or corporation purchasing a bus or buses under the conditions of this section, that does not comply with all the conditions of this section shall not be eligible for future purchases of a school bus under this section.

(d) Any private school interested in purchasing

a bus under this section shall notify, in writing, the Department of Education. The Department of Education shall send the school the appropriate forms, instructions, and price quotations.

(e) Notwithstanding any other provisions of this section, no school bus manufacturer, distributor, or dealer shall be required to violate any dealer contract or franchise agreement entered into before the

effective date of this section regarding the sale of its buses.

(f) The State Board of Education may adopt rules pursuant to ss. 120.536 and 120.54 necessary to implement this section, maintain the integrity of the school bus pool purchase program, and ensure the best and lowest price for purchasing school buses by the public school districts.

History.—s. 107, ch. 2002-387; s. 33, ch. 2003-391; s. 36, ch. 2004-41; s. 80, ch. 2004-357; s. 2, ch. 2006-246.

# Florida Statutes Pertaining to Special Programs

## Chapter 1003

### Public K–12 Education

**1003.01 Definitions.**—As used in this chapter, the term:

(1) “District school board” means the members who are elected by the voters of a school district created and existing pursuant to s. 4, Art. IX of the State Constitution to operate and control public K-12 education within the school district.

(2) “School” means an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

(3)(a) “Exceptional student” means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to s. 1003.21(1) (e).

(b) “Special education services” means specially designed instruction and such related services as are necessary for an exceptional student to benefit from education. Such services may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and other such services as approved by rules of the state board.

(4) “Career education” means education that provides instruction for the following purposes:

(a) At the elementary, middle, and high school levels, exploratory courses designed to give students initial exposure to a broad range of occupations to assist them in preparing their academic and occupational plans, and practical arts courses that

provide generic skills that may apply to many occupations but are not designed to prepare students for entry into a specific occupation. Career education provided before high school completion must be designed to strengthen both occupational awareness and academic skills integrated throughout all academic instruction.

(b) At the secondary school level, job-preparatory instruction in the competencies that prepare students for effective entry into an occupation, including diversified cooperative education, work experience, and job-entry programs that coordinate directed study and on-the-job training.

(c) At the postsecondary education level, courses of study that provide competencies needed for entry into specific occupations or for advancement within an occupation.

(5)(a) “Suspension,” also referred to as out-of-school suspension, means the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal’s designee, for a period not to exceed 10 school days and remanding of the student to the custody of the student’s parent with specific homework assignments for the student to complete.

(b) “In-school suspension” means the temporary removal of a student from the student’s regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.

(6) “Expulsion” means the removal of the right and obligation of a student to attend a public school under conditions set by the district school board, and for a period of time not to exceed the remainder of the term or school year and 1 additional year of attendance. Expulsions may be imposed with or without continuing educational services and shall be reported accordingly.

(7) “Corporal punishment” means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rule. However, the term “corporal punishment” does not include the use of such reasonable force by a teacher or principal as may be necessary for self-protection or to protect other students from disruptive students.

(8) “Habitual truant” means a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student’s parent, is subject to compulsory school attendance under s. 1003.21(1) and (2)(a), and is

not exempt under s. 1003.21(3) or s. 1003.24, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education. Such a student must have been the subject of the activities specified in ss. 1003.26 and 1003.27(3), without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 984.

(9) "Dropout" means a student who meets any one or more of the following criteria:

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student's whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any career, adult, home education, or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. 322.091, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district's policy.

The State Board of Education may adopt rules to implement the provisions of this subsection.

(10) "Alternative measures for students with special needs" or "special programs" means measures designed to meet the special needs of a student that cannot be met by regular school curricula.

(11)(a) "Juvenile justice education programs or schools" means programs or schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

(b) "Juvenile justice provider" means the Department of Juvenile Justice or a private, public, or other governmental organization under contract with the Department of Juvenile Justice that provides treatment, care and custody, or educational

programs for youth in juvenile justice intervention, detention, or commitment programs.

(12) "Homeless child" means:

(a) One who lacks a fixed, regular nighttime residence;

(b) One who has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for the mentally ill;

2. An institution that provides a temporary residence for individuals intended to be institutionalized; or

3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) One who temporarily resides with an adult other than his or her parent because the parent is suffering financial hardship.

A child who is imprisoned, detained, or in the custody of the state pursuant to a state or federal law is not a homeless child.

(13) "Regular school attendance" means the actual attendance of a student during the school day as defined by law and rules of the State Board of Education. Regular attendance within the intent of s. 1003.21 may be achieved by attendance in:

(a) A public school supported by public funds;

(b) A parochial, religious, or denominational school;

(c) A private school supported in whole or in part by tuition charges or by endowments or gifts;

(d) A home education program that meets the requirements of chapter 1002; or

(e) A private tutoring program that meets the requirements of chapter 1002.

(14) "Core-curricula courses" means courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms. The term is limited in meaning and used for the sole purpose of designating classes that are subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. This term does not include courses offered under ss. 1002.37, 1002.415, and 1002.45.

(15) "Extracurricular courses" means all courses that are not defined as "core-curricula courses," which may include, but are not limited to, physical education, fine arts, performing fine arts, and career education. The term is limited in meaning and used for the sole purpose of designating classes that are not subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution.

(16) "Physical education" means the development or maintenance of skills related to strength, agility, flexibility, movement, and stamina, including

dance; the development of knowledge and skills regarding teamwork and fair play; the development of knowledge and skills regarding nutrition and physical fitness as part of a healthy lifestyle; and the development of positive attitudes regarding sound nutrition

and physical activity as a component of personal well-being.

History.—s. 111, ch. 2002-387; s. 1, ch. 2003-391; s. 81, ch. 2004-357; s. 15, ch. 2006-74; s. 2, ch. 2007-28; s. 5, ch. 2008-147; s. 3, ch. 2008-204.

### **1003.02 District school board operation and control of public K-12 education within the school district.**

—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following fields:

(a) Admission, classification, promotion, and graduation of students.—Adopt rules for admitting, classifying, promoting, and graduating students to or from the various schools of the district.

(b) Enforcement of attendance laws.—Provide for the enforcement of all laws and rules relating to the attendance of students at school. District school boards are authorized to establish policies that allow accumulated unexcused tardies, regardless of when they occur during the school day, and early departures from school to be recorded as unexcused absences. District school boards are also authorized to establish policies that require referral to a school's child study team for students who have fewer absences than the number required by s. 1003.26(1)

(b).

(c) Control of students.—

1. Adopt rules for the control, attendance, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion.

2. Maintain a code of student conduct as provided in chapter 1006.

(d) Courses of study and instructional materials.—

1. Provide adequate instructional materials for all students as follows and in accordance with the requirements of chapter 1006, in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction.

2. Adopt courses of study for use in the schools of the district.

3. Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials as may be needed, and ensure that instructional materials used in the district are consistent with the district goals and objectives and the curriculum frameworks approved by the State Board of Education, as well as with the state and school district performance standards required by law and state board rule.

(e) Transportation.—Make provision for the transportation of students to the public schools or school activities they are required or expected to attend, efficiently and economically, in accordance with the requirements of chapter 1006, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

(f) Facilities and school plant.

1. Approve and adopt a districtwide school facilities program, in accordance with the requirements of chapter 1013.

2. Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013.

3. Approve and adopt a districtwide school building program.

4. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

5. Approve the proposed purchase of any site, playground, or recreational area for which school district funds are to be used.

6. Expand existing sites

7. Rent buildings when necessary, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

8. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2).

9. Provide for the proper supervision of construction.

10. Make or contract for additions, alterations, and repairs on buildings and other school properties.

11. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

12. Provide adequately for the proper maintenance and upkeep of school plants, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

13. Carry insurance on every school building

in all school plants including contents, boilers, and machinery, except buildings of three classrooms or less which are of frame construction and located in a tenth class public protection zone as defined by the Florida Inspection and Rating Bureau, and on all school buses and other property under the control of the district school board or title to which is vested in the district school board, except as exceptions may be authorized under rules of the State Board of Education.

14. Condemn and prohibit the use for public school purposes of any building under the control of the district school board.

(g) School operation.

1. Provide for the operation of all public schools as free schools for a term of at least 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education; determine district school funds necessary in addition to state funds to operate all schools for the minimum term; and arrange for the levying of district school taxes necessary to provide the amount needed from district sources.

2. Prepare, adopt, and timely submit to the Department of Education, as required by law and by rules of the State Board of Education, the annual school budget, so as to promote the improvement of the district school system.

(h) Records and reports.

1. Keep all necessary records and make all needed and required reports, as required by law or by rules of the State Board of Education.

2. At regular intervals require reports to be made by principals or teachers in all public schools to the parents of the students enrolled and in attendance at their schools, apprising them of the academic and other progress being made by the student and giving other useful information.

(i) Parental notification of acceleration mechanisms.—At the beginning of each school year, notify parents of students in or entering high school of the opportunity and benefits of advanced placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, and Florida Virtual School courses.

(2) Require that all laws, all rules of the State Board of Education, and all rules of the district school board are properly enforced.

(3) Maintain a system of school improvement and education accountability as required by law and State Board of Education rule, including but not limited to the requirements of chapter 1008.

(4) In order to reduce the anonymity of students in large schools, adopt policies that encourage subdivision of the school into schools-within-a-school, which shall operate within existing resources. A “school-within-a-school” means an operational program that uses flexible scheduling, team planning, and curricular and instructional innovation to organize groups of students with groups of teachers as smaller units, so as to functionally operate as a smaller school. Examples of this include, but are not limited to:

(a) An organizational arrangement assigning both students and teachers to smaller units in which the students take some or all of their coursework with their fellow grouped students and from the teachers assigned to the smaller unit. A unit may be grouped together for 1 year or on a vertical, multi-year basis.

(b) An organizational arrangement similar to that described in paragraph (a) with additional variations in instruction and curriculum. The smaller unit usually seeks to maintain a program different from that of the larger school, or of other smaller units. It may be vertically organized, but is dependent upon the school principal for its existence, budget, and staff.

(c) A separate and autonomous smaller unit formally authorized by the district school board or district school superintendent. The smaller unit plans and runs its own program, has its own staff and students, and receives its own separate budget. The smaller unit must negotiate the use of common space with the larger school and defer to the building principal on matters of safety and building operation.

History.—s. 112, ch. 2002-387; s. 10, ch. 2003-391; s. 82, ch. 2004-357; s. 3, ch. 2006-301; s. 2, ch. 2008-43.

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**1003.03 Maximum class size.—**

(1) CONSTITUTIONAL CLASS SIZE MAXIMUMS.—Pursuant to s. 1, Art. IX of the State Constitution, beginning in the 2010-2011 school year:

(a) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students.

(b) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 4 through 8 may not exceed 22 students.

(c) The maximum number of students assigned

to each teacher who is teaching core-curricula courses in public school classrooms for grades 9 through 12 may not exceed 25 students.

(2) IMPLEMENTATION.—

(a) Beginning with the 2003-2004 fiscal year, each school district that is not in compliance with the maximums in subsection (1) shall reduce the average number of students per classroom in each of the following grade groupings: prekindergarten through grade 3, grade 4 through grade 8, and grade 9 through grade 12, by at least two students each year.

(b) Determination of the number of students per classroom in paragraph (a) shall be calculated as

follows:

1. For fiscal years 2003-2004 through 2005-2006, the calculation for compliance for each of the 3 grade groupings shall be the average at the district level.

2. For fiscal years 2006-2007 through 2008-2009, the calculation for compliance for each of the 3 grade groupings shall be the average at the school level.

3. For fiscal year 2009-2010 and thereafter, the calculation for compliance shall be at the individual classroom level.

4. For fiscal years 2006-2007 through 2009-2010 and thereafter, each teacher assigned to any classroom shall be included in the calculation for compliance.

(c) The Department of Education shall annually calculate each of the three average class size measures defined in paragraphs (a) and (b) based upon the October student membership survey. For purposes of determining the baseline from which each district's average class size must be reduced for the 2003-2004 school year, the department shall use data from the February 2003 student membership survey updated to include classroom identification numbers as required by the department.

(d) Prior to the adoption of the district school budget for 2004-2005, each district school board shall hold public hearings to review school attendance zones in order to ensure maximum use of facilities while minimizing the additional use of transportation in order to comply with the two-student-per-year reduction required in paragraph (a). School districts that meet the constitutional class size maximums described in subsection (1) are exempt from this requirement.

(3) IMPLEMENTATION OPTIONS.—District school boards must consider, but are not limited to, implementing the following items in order to meet the constitutional class size maximums described in subsection (1) and the two-student-per-year reduction required in subsection (2):

(a) Adopt policies to encourage qualified students to take dual enrollment courses.

(b) Adopt policies to encourage students to take courses from the Florida Virtual School.

(c)1. Repeal district school board policies that require students to have more than 24 credits to graduate from high school.

2. Adopt policies to allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.

(d) Use methods to maximize use of instructional staff, such as changing required teaching loads and scheduling of planning periods, deploying district employees that have professional certification to the classroom, using adjunct educators, or any other method not prohibited by law.

(e) Use innovative methods to reduce the cost

of school construction by using prototype school designs, using SMART Schools designs, participating in the School Infrastructure Thrift Program, or any other method not prohibited by law.

(f) Use joint-use facilities through partnerships with community colleges, state universities, and private colleges and universities. Joint-use facilities available for use as K-12 classrooms that do not meet the K-12 State Regulations for Educational Facilities in the Florida Building Code may be used at the discretion of the district school board provided that such facilities meet all other health, life, safety, and fire codes.

(g) Adopt alternative methods of class scheduling, such as block scheduling.

(h) Redraw school attendance zones to maximize use of facilities while minimizing the additional use of transportation.

(i) Operate schools beyond the normal operating hours to provide classes in the evening or operate more than one session of school during the day.

(j) Use year-round schools and other nontraditional calendars that do not adversely impact annual assessment of student achievement.

(k) Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.

(l) Use any other approach not prohibited by law.

(4) ACCOUNTABILITY.—

(a)1. Beginning in the 2003-2004 fiscal year, if the department determines for any year that a school district has not reduced average class size as required in subsection (2) at the time of the third FEFP calculation, the department shall calculate an amount from the class size reduction operating categorical which is proportionate to the amount of class size reduction not accomplished. Upon verification of the department's calculation by the Florida Education Finance Program Appropriation Allocation Conference and not later than March 1 of each year, the Executive Office of the Governor shall transfer undistributed funds equivalent to the calculated amount from the district's class size reduction operating categorical to an approved fixed capital outlay appropriation for class size reduction in the affected district pursuant to s. 216.292(2)(d). The amount of funds transferred shall be the lesser of the amount verified by the Florida Education Finance Program Appropriation Allocation Conference or the undistributed balance of the district's class size reduction operating categorical.

2. In lieu of the transfer required by subparagraph 1., the Commissioner of Education may recommend a budget amendment, subject to approval by the Legislative Budget Commission, to transfer an alternative amount of funds from the district's class size reduction operating categorical to its approved fixed capital outlay account for class size reduction if the commissioner finds that the State

Board of Education has reviewed evidence indicating that a district has been unable to meet class size reduction requirements despite appropriate effort to do so. The commissioner's budget amendment must be submitted to the Legislative Budget Commission by February 15 of each year.

3. For the 2007-2008 fiscal year and thereafter, if in any fiscal year funds from a district's class size operating categorical are required to be transferred to its fixed capital outlay fund and the district's class size operating categorical allocation in the General Appropriations Act for that fiscal year has been reduced by a subsequent appropriation, the Commissioner of Education may recommend a 10-percent reduction in the amount of the transfer.

(b) Beginning in the 2005-2006 school year, the department shall determine by January 15 of each year which districts have not met the two-student-per-year reduction required in subsection (2) based upon a comparison of the district's October student membership survey for the current school year and the February 2003 baseline student membership survey. The department shall report such districts to the Legislature. Each district that has not met the two-student-per-year reduction shall be required to implement one of the following policies in the subsequent school year unless the department finds that the district comes into compliance based upon the February student membership survey:

1. Year-round schools;
2. Double sessions
3. Rezoning; o
4. Maximizing use of instructional staff by

changing required teacher loads and scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct educators, operating schools beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.

A school district that is required to implement one of the policies outlined in subparagraphs 1.-4. shall correct in the year of implementation any past deficiencies and bring the district into compliance with the two-student-per-year reduction goals established for the district by the department pursuant to subsection (2). A school district may choose to implement more than one of these policies. The district school superintendent shall report to the Commissioner of Education the extent to which the district implemented any of the policies outlined in subparagraphs 1.-4. in a format to be specified by the Commissioner of Education. The Department of Education shall use the enforcement authority provided in s. 1008.32 to ensure that districts comply with the provisions of this paragraph.

(c) Beginning in the 2006-2007 school year, the department shall annually determine which districts do not meet the requirements described in subsection (2). In addition to enforcement authority

provided in s. 1008.32, the Department of Education shall develop a constitutional compliance plan for each such district which includes, but is not limited to, redrawing school attendance zones to maximize use of facilities while minimizing the additional use of transportation unless the department finds that the district comes into compliance based upon the February student membership survey and the other accountability policies listed in paragraph (b). Each district school board shall implement the constitutional compliance plan developed by the state board until the district complies with the constitutional class size maximums.

(5) TEAM-TEACHING STRATEGIES.—

(a) School districts may use teaching strategies that include the assignment of more than one teacher to a classroom of students and that were implemented before July 1, 2005. Effective July 1, 2005, school districts may implement additional teaching strategies that include the assignment of more than one teacher to a classroom of students for the following purposes only:

1. Pairing teachers for the purpose of staff development.
2. Pairing new teachers with veteran teachers
3. Reducing turnover among new teachers
4. Pairing teachers who are teaching out-of-field with teachers who are in-field.
5. Providing for more flexibility and innovation in the classroom.
6. Improving learning opportunities for students, including students who have disabilities.

(b) Teaching strategies, including team teaching, co-teaching, or inclusion teaching, implemented on or after July 1, 2005, pursuant to paragraph (a) may be implemented subject to the following restrictions:

1. Reasonable limits shall be placed on the number of students in a classroom so that classrooms are not overcrowded. Teacher-to-student ratios within a curriculum area or grade level must not exceed constitutional limits.

2. At least one member of the team must have at least 3 years of teaching experience.

3. At least one member of the team must be teaching in-field.

4. The teachers must be trained in team-teaching methods within 1 year after assignment.

(c) As used in this subsection, the term

1. "Team teaching" or "co-teaching" means two or more teachers are assigned to a group of students and each teacher is responsible for all of the students during the entire class period. In order to be considered team teaching or co-teaching, each teacher is responsible for planning, delivering, and evaluating instruction for all students in the class or subject for the entire class period.

2. "Inclusion teaching" means two or more teachers are assigned to a group of students, but one of the teachers is responsible for only one stu-

dent or a small group of students in the classroom.

The use of strategies implemented as outlined in this subsection meets the letter and intent of the Florida Constitution and the Florida Statutes which relate to implementing class size reduction, and this subsection applies retroactively. A school district may not be penalized financially or otherwise as a

result of the use of any legal strategy, including, but not limited to, those set forth in subsection (3) and this subsection.

History.—s. 113, ch. 2002-387; s. 2, ch. 2003-391; s. 59, ch. 2005-152; s. 16, ch. 2006-74; s. 2, ch. 2007-59; s. 7, ch. 2007-98; s. 1, ch. 2007-328; s. 5, ch. 2008-142.

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#### **1003.04 Student conduct and parental involvement.—**

(1) Each public K-12 student must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss. 1003.31 and 1003.32, to remove the student

from the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

(3) It is the goal of the Legislature and each district school board that the parent of each public K-12 student comply with the school's reasonable and time-acceptable parental involvement requests.

History.—s. 114, ch. 2002-387; s. 34, ch. 2003-391.

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#### **1003.05 Assistance to transitioning students from military families.—**

(1) The Legislature finds that school-aged dependents of military personnel, otherwise known as military students, are faced with numerous transitions during their formative years and that moves during the high school years provide special challenges to learning and future achievement. Recognizing the challenges faced by military students and the importance of military families to our community and economy, the Department of Education shall assist the transition of these students by improving the timely transfer of records, developing systems to ease student transition during the first 2 weeks of enrollment, promoting practices which foster access to extracurricular programs, establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year, encouraging or continuing partnerships between the military base and the school system, providing services for transitioning students when applying to and finding funding for postsecondary study, and providing other assistance as identified by department, school, and military personnel.

(2) The Department of Education shall facilitate

the development and implementation of memoranda of agreement between school districts and military installations which address strategies for assisting students who are the children of active duty military personnel in the transition to Florida schools.

(3) Dependent children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools shall be given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned. If such a program is offered through a public school other than the school to which the student would generally be assigned, the parent or guardian of the student must assume responsibility for transporting the student to that school. For purposes of this subsection, special academic programs include magnet schools, advanced studies programs, advanced placement, dual enrollment, Advanced International Certificate of Education, and International Baccalaureate.

History.—s. 1, ch. 2003-44; s. 12, ch. 2004-230; s. 17, ch. 2006-74; s. 8, ch. 2006-190.

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#### **1003.21 School attendance.—**

(1)(a)1. All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who have not attained the age of 16 years, except as otherwise provided, are required to attend school regularly during the entire school term.

2. Children who will have attained the age of 5 years on or before September 1 of the school year are eligible for admission to public kindergartens during that school year under rules adopted by the district school board.

(b) Any child who has attained the age of 6

years on or before September 1 of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before September 1 and has satisfactorily completed the requirements for kindergarten in a private school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's student progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of private schools or home education programs.

(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district must notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's guidance counselor or other school personnel must conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student must be informed of opportunities to continue his or her education in a different environment, including, but not limited to, adult education and GED test preparation. Additionally, the student must complete a survey in a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

(d) Students who become or have become married and students who are pregnant shall not be prohibited from attending school. These students and students who are parents shall receive the same educational instruction or its equivalent as other students, but may voluntarily be assigned to a class or program suited to their special needs. Consistent with s. 1003.54, pregnant or parenting teens may participate in a teenage parent program. Pregnant students may attend alternative education programs or adult education programs, provided that the curriculum allows the student to continue to work toward a high school diploma.

(e) Consistent with rules adopted by the State Board of Education, children with disabilities who have attained the age of 3 years shall be eligible for admission to public special education programs and for related services. Children with disabilities younger than 3 years of age who are deaf or hard of hearing; visually impaired; dual sensory impaired; orthopedically impaired; other health impaired; who have experienced traumatic brain injury; who have autism spectrum disorder; established conditions, or who exhibit developmental delays or intellectual disabilities may be eligible for special programs and may receive services in accordance with rules of the State Board of Education. Rules for the identification of established conditions for children birth through 2 years of age and developmental delays for children birth through 5 years of age must be adopted by the State Board of Education.

(f) Homeless children, as defined in s. 1003.01, must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist homeless children to meet the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(2)(a) The State Board of Education may adopt rules under which students not meeting the entrance age may be transferred from another state if their parents have been legal residents of that state.

(b) Each district school board, in accordance with rules of the State Board of Education, shall adopt a policy that authorizes a parent to request and be granted permission for absence of a student from school for religious instruction or religious holidays.

(3) The district school superintendent may authorize certificates of exemptions from school attendance requirements in certain situations. Students within the compulsory attendance age limits who hold valid certificates of exemption that have been issued by the superintendent shall be exempt from attending school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued.

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(a) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(c) An insurance policy on the child's life that has been in force for at least 2 years;

(d) A bona fide contemporary religious record of the child's birth accompanied by an affidavit sworn to by the parent;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these is available in the county, by a licensed practicing physician designated by the

district school board, which certificate states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. A homeless child, as defined in

s. 1003.01, shall be given temporary exemption from this section for 30 school days.

History.—s. 116, ch. 2002-387; s. 18, ch. 2006-74; s. 4, ch. 2006-301; s. 4, ch. 2008-204.

**1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health. —**

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year prior to enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. A homeless child, as defined in s. 1003.01, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, any child shall be exempt from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(2) The State Board of Education, subject to the concurrence of the Department of Health, shall adopt rules to govern medical examinations and immunizations performed under this section.

(3) The Department of Health may adopt rules necessary to administer and enforce this section. The Department of Health, after consultation with the Department of Education, shall adopt rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. The rules must include procedures for exempting a child from immunization requirements. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health. The manner and frequency of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health shall supervise and secure the enforcement of the required immunization. Immunizations required by this section shall be available at no cost from the county health departments.

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, or any other initial entrance into a Florida public or private school, each child present or have on file with the school a certification of immunization for the

prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(5) The provisions of this section shall not apply if:

(a) The parent of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. A homeless child, as defined in s. 1003.01, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper

documentation or immunizations are obtained.

(6)(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a district school board, or any of its employees, or member of a governing board of a private school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades prekindergarten through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(8) Each public school, including public kindergarten, and each private school, including private kindergarten, shall be required to provide to the county health department director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health for each kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be

used.

(9) The presence of any of the communicable diseases for which immunization is required by the Department of Health in a Florida public or private school shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all students in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the private school; and the school health and immunization records of such children shall be made available to the county health department director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority of the private school, until such time as is specified by the county health department director or administrator.

(10) Each district school board and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or private school, who is not in compliance with the provisions of subsection (4).

(b) Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (4).

(11) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

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History.—s. 117, ch. 2002-387; s. 38, ch. 2004-41.

### **1003.23 Attendance records and reports.—**

(1) The attendance of all public K-12 school students shall be checked each school day in the manner prescribed by rules of the State Board of Education and recorded in the teacher's register or by some approved system of recording attendance. Students may be counted in attendance only if they are actually present at school or are away from school on a school day and are engaged in an educational activity which constitutes a part of the school-approved instructional program for the student.

(2) All officials, teachers, and other employees in public, parochial, religious, denominational, and private K-12 schools, including private tutors, shall keep all records and shall prepare and submit promptly all reports that may be required by law and

by rules of the State Board of Education and district school boards. Such records shall include a register of enrollment and attendance and all persons described above shall make these reports therefrom as may be required by the State Board of Education. The enrollment register shall show the absence or attendance of each student enrolled for each school day of the year in a manner prescribed by the State Board of Education. The register shall be open for the inspection by the designated school representative or the district school superintendent of the district in which the school is located. Violation of the provisions of this section shall be a misdemeanor of the second degree, punishable as provided by law. This section shall not apply to home education programs provided in s. 1002.41.

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History.—s. 118, ch. 2002-387.

**1003.24 Parents responsible for attendance of children; attendance policy.—**Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law.

The absence of a student from school is prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of

s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

- (1) WITH PERMISSION.—The absence was with permission of the head of the school;
- (2) WITHOUT KNOWLEDGE.—The absence was without the parent's knowledge, consent, or connivance, in which case the student shall be dealt with as a dependent child;
- (3) FINANCIAL INABILITY.—The parent was unable financially to provide necessary clothes for the student, which inability was reported in writing to the superintendent prior to the opening of school or immediately after the beginning of such inability, provided that the validity of any claim for exemption under this subsection shall be determined by the district school superintendent subject to appeal to the district school board; or
- (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE CONDITION.—Attendance was impracticable or inadvisable on account of sickness or injury, attested to by a written statement of a

licensed practicing physician, or was impracticable because of some other stated insurmountable condition as defined by rules of the State Board of Education. If a student is continually sick and repeatedly absent from school, he or she must be under the supervision of a physician in order to receive an excuse from attendance. Such excuse provides that a student's condition justifies absence for more than the number of days permitted by the district school board.

Each district school board shall establish an attendance policy that includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

History.—s. 119, ch. 2002-387.

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**1003.25 Procedures for maintenance and transfer of student records.—**

(1) Each principal shall maintain a permanent cumulative record for each student enrolled in a public K-12 school. Such record shall be maintained in the form, and contain all data, prescribed by rule by the State Board of Education. The cumulative record is confidential and exempt from the provisions of s. 119.07(1) and is open to

inspection only as provided in chapter 1002.

(2) The procedure for transferring and maintaining records of students who transfer from school to school shall be prescribed by rules of the State Board of Education.

(3) Procedures relating to the acceptance of transfer work and credit for students shall be prescribed by rule by the State Board of Education.

History.—s. 120, ch. 2002-387.

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**1003.26 Enforcement of school attendance.—**The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonatten-

dance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) CONTACT, REFER, AND ENFORCE.—

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the

case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies, and the principal shall notify the district school superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

1. Frequent attempts at communication between the teacher and the family.
2. Evaluation for alternative education programs.
3. Attendance contracts.

The child study team may, but is not required to, implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition pursuant to s. 984.151.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent may appeal to the district school board. The district school board may provide a hearing officer, and the hearing officer shall make a recommendation for final action to the district school board. If the district school board's final determination is that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, the district school superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f)1. If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent shall provide the parent a copy of s. 1002.41 and the accountability requirements of this paragraph. The district school superintendent shall also refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent from a district list of all home educators who have conducted a home education program for at least 3 years and who have indicated a willingness to serve on the committee. The home education review committee shall review the portfolio of the student, as defined by s. 1002.41, every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance with s. 1002.41(1)(b). The first portfolio review must occur within the first 30

calendar days of the establishment of the program. The provisions of subparagraph 2. do not apply once the committee determines the home education program is in compliance with s. 1002.41(1)(b).

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the definition of "regular school attendance" under s. 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s. 1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(b).

(g) If a student subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent or the district school superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the district school superintendent or his or her designee may file a truancy petition pursuant to the procedures in s. 984.151.

(2) GIVE WRITTEN NOTICE.—

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) RETURN STUDENT TO PARENT.—A designated school representative may visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not en-

rolled or is absent from school during school hours without an excuse, and, when the student is found, shall return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

(4) REPORT TO APPROPRIATE

AUTHORITY.—A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowl-

**1003.27 Court procedure and penalties.**—The court procedure and penalties for the enforcement of the provisions of this part, relating to compulsory school attendance, shall be as follows:

(1) COURT JURISDICTION.—The circuit court has original and exclusive jurisdiction of all proceedings against, or prosecutions of, students under the provisions of this part. Proceedings against, or prosecutions of, parents or employers as provided by this section shall be in the court of each county having jurisdiction of misdemeanors wherein trial by jury is afforded the defendant.

(2) NONENROLLMENT AND NONATTENDANCE CASES.—

(a) In each case of nonenrollment or of nonattendance upon the part of a student who is required to attend some school, when no valid reason for such nonenrollment or nonattendance is found, the district school superintendent shall institute a criminal prosecution against the student's parent.

(b) Each public school principal or the principal's designee shall notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. Each designee of the governing body of each private school, and each parent whose child is enrolled in a home education program, may provide the Department of Highway Safety and Motor Vehicles with the legal name, sex, date of birth, and social security number of each minor student under his or her jurisdiction who fails to satisfy relevant attendance requirements and who fails to otherwise satisfy the requirements of s. 322.091. The district school superintendent must provide the Department of Highway Safety and Motor Vehicles the legal name, sex, date of birth, and social security number of each minor student who has been reported under this paragraph and who fails to otherwise satisfy the requirements of s. 322.091. The Department of Highway Safety and Motor Vehicles may not issue a driver's license or learner's driver's license to, and shall suspend any previously issued driver's license or learner's driver's license of, any such minor student, pursuant to the provisions of s. 322.091.

(3) HABITUAL TRUANCY CASES.—The district school superintendent is authorized to file a

edge.

(5) RIGHT TO INSPECT.—A designated school representative shall have the right of access to, and inspection of, establishments where minors may be employed or detained only for the purpose of ascertaining whether students of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the appropriate authority.

History.—s. 121, ch. 2002-387; s. 5, ch. 2006-301.

truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151. If the district school superintendent chooses not to file a truancy petition, procedures for filing a child-in-need-of-services petition shall be commenced pursuant to this subsection and chapter 984. In accordance with procedures established by the district school board, the designated school representative shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in this section. The case staffing committee may request the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the district school board or other community agency or may seek to resolve the truant behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this section and s. 1003.26 to remedy the conditions leading to the truant behavior. Prior to the filing of a petition, the district school board must have complied with the requirements of s. 1003.26, and those efforts must have been unsuccessful.

(4) COOPERATIVE AGREEMENTS.—The circuit manager of the Department of Juvenile Justice or the circuit manager's designee, the district administrator of the Department of Children and Family Services or the district administrator's designee, and the district school superintendent or the superintendent's designee must develop a cooperative interagency agreement that:

(a) Clearly defines each department's role, responsibility, and function in working with habitual truants and their families.

(b) Identifies and implements measures to resolve and reduce truant behavior.

(c) Addresses issues of streamlining service delivery, the appropriateness of legal intervention, case management, the role and responsibility of the case staffing committee, student and parental

intervention and involvement, and community action plans.

(d) Delineates timeframes for implementation and identifies a mechanism for reporting results by the circuit juvenile justice manager or the circuit manager's designee and the district school superintendent or the superintendent's designee to the Department of Juvenile Justice and the Department of Education and other governmental entities as needed.

(e) Designates which agency is responsible for each of the intervention steps in this section, to yield more effective and efficient intervention services.

(5) ATTENDANCE REGISTER AS EVIDENCE.—The register of attendance of students at a public, parochial, religious, denominational, or private school, or of students taught by a private tutor, kept in compliance with rules of the State Board of Education is prima facie evidence of the facts which it is required to show. A certified copy of any rule and a statement of the date of its adoption by the State Board of Education is admissible as prima facie evidence of the provisions of the rule and of the date of its adoption.

(6) PROCEEDINGS AND PROSECUTIONS; WHO MAY BEGIN.—Proceedings or prosecutions under this chapter may be commenced by the district school superintendent, by a designated school representative, by the probation officer of the county, by the executive officer of any court of competent jurisdiction, by an officer of any court of competent jurisdiction, or by a duly authorized agent of the Department of Education or the Department of Juvenile Justice. If a proceeding has been commenced against both a parent and a child pursuant to this chapter, the presiding courts shall make every effort to coordinate sanctions against the child and parent, including ordering the child and parent to perform community service hours or attend counseling together.

(7) PENALTIES.—The penalties for refusing or failing to comply with this chapter shall be as follows:

(a) The parent.

1. A parent who refuses or fails to have a minor student who is under his or her control attend school regularly, or who refuses or fails to comply with the requirements in subsection (3), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. The continued or habitual absence of a minor student without the consent of the principal or teacher in charge of the school he or she attends or should attend, or of the tutor who instructs or should instruct him or her, is prima facie evidence of a violation of this chapter; however, a showing that the parent has made a bona fide and diligent effort

to control and keep the student in school shall be an affirmative defense to any criminal or other liability under this subsection and the court shall refer the parent and child for counseling, guidance, or other needed services.

3. In addition to any other punishment, the court shall order a parent who has violated this section to send the minor student to school, and may also order the parent to participate in an approved parent training class, attend school with the student unless this would cause undue hardship, perform community service hours at the school, or participate in counseling or other services, as appropriate. If a parent is ordered to attend school with a student, the school shall provide for programming to educate the parent and student on the importance of school attendance. It shall be unlawful to terminate any employee solely because he or she is attending school with his or her child pursuant to a court order.

(b) The principal or teacher.—A principal or teacher in any public, parochial, religious, denominational, or private school, or a private tutor who willfully violates any provision of this chapter may, upon satisfactory proof of such violation, have his or her certificate revoked by the Department of Education.

(c) The employer.—

1. An employer who fails to notify the district school superintendent when he or she ceases to employ a student commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. An employer who terminates any employee solely because he or she is attending school with a student pursuant to court order commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) The student.—

1. In addition to any other authorized sanctions, the court shall order a student found to be a habitual truant to make up all school work missed and may order the student to pay a civil penalty of up to \$2, based on the student's ability to pay, for each day of school missed, perform up to 25 community service hours at the school, or participate in counseling or other services, as appropriate.

2. Upon a second or subsequent finding that a student is a habitual truant, the court, in addition to any other authorized sanctions, shall order the student to make up all school work missed and may order the student to pay a civil penalty of up to \$5, based on the student's ability to pay, for each day of school missed, perform up to 50 community service hours at the school, or participate in counseling or other services, as appropriate.

History.—s. 122, ch. 2002-387.

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**1003.28 Continuation of truancy remedial activities upon transfer of student; retention of legal jurisdiction.—**

(1) If, during the activities designed to remedy truant behavior as described in s. 1003.27, the parent of the student who is the subject of such activi-

ties transfers the student to another school district in this state in an attempt to circumvent the remedial procedures which have already begun, the administration of the school from which the student transferred shall provide to the administration of the new school, at no charge, copies of all available records and documents relevant to such remedial activities, and the administration of the new school shall begin remedial activities in the program that most closely meets the transfer student's needs.

**1003.29 Notice to schools of court action.**—If a court takes action that directly involves a student's school, including, but not limited to, an order that a student attend school, attend school with his or her parent, perform at grade level, or perform com-

**1003.31 Students subject to control of school.**—

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

- (a) During the time she or he is being transported to or from school at public expense;
- (b) During the time she or he is attending school;
- (c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and
- (d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

(2) There is a rebuttable presumption that the term "reasonable time" means 30 minutes before or after the activity is scheduled or actually begins or ends, whichever period is longer. A school or district school board may, by policy or other formal action, assume a longer period of supervision. Casual or incidental contact between school district personnel and students on school property shall not result in a legal duty to supervise outside of the reasonable

(2) In the event that a legal proceeding has commenced, as provided in s. 1003.27, against a student who has been determined to be a habitual truant, the movement of the student who is the subject of such proceeding to another circuit court district in this state will not affect the jurisdiction of the court to proceed with the case under the law.

History.—s. 123, ch. 2002-387.

munity service hours at the school, the office of the clerk of the court shall provide notice to the school of the court's action.

History.—s. 124, ch. 2002-387.

times set forth in this section, provided that parents shall be advised in writing twice per year or by posted signs of the school's formal supervisory responsibility and that parents should not rely on additional supervision. The duty of supervision shall not extend to anyone other than students attending school and students authorized to participate in school-sponsored activities.

(3) Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:

- (a) The student is found to have committed a delinquent act which would be a felony if committed by an adult;
- (b) The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or
- (c) The student has been found guilty of felony.

However, if the student is a student with a disability, the disciplinary action must comply with the procedures set forth in State Board of Education rule.

(4) Each student enrolled in a school may be required to take the following school child's daily conduct pledge:

- (a) I will be respectful at all times and obedient unless asked to do wrong.
- (b) I will not hurt another person with my words or my acts, because it is wrong to hurt others.
- (c) I will tell the truth, because it is wrong to tell a lie.
- (d) I will not steal, because it is wrong to take someone else's property.
- (e) I will respect my body, and not take drugs.
- (f) I will show strength and courage, and not do something wrong, just because others are doing it.
- (g) I pledge to be nonviolent and to respect my teachers and fellow classmates.

History.—s. 126, ch. 2002-387; s. 35, ch. 2003-391.

**1003.32 Authority of teacher; responsibility for control of students; district school board and principal duties.**

—Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

- (a) Establish classroom rules of conduct.
- (b) Establish and implement consequences, designed to change behavior, for infractions of classroom rules.
- (c) Have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom for behavior management intervention.
- (d) Have violent, abusive, uncontrollable, or disruptive students directed for information or assistance from appropriate school or district school board personnel.
- (e) Assist in enforcing school rules on school property, during school-sponsored transportation, and during school-sponsored activities.
- (f) Request and receive information as to the disposition of any referrals to the administration for violation of classroom or school rules.
- (g) Request and receive immediate assistance in classroom management if a student becomes uncontrollable or in case of emergency.
- (h) Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.
- (i) Press charges if there is a reason to believe that a crime has been committed on school property, during school-sponsored transportation, or during school-sponsored activities.
- (j) Use reasonable force, according to standards adopted by the State Board of Education, to protect himself or herself or others from injury.
- (k) Use corporal punishment according to school board policy and at least the following procedures, if a teacher feels that corporal punishment is necessary:

1. The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal

shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

2. A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the punishment.

3. A teacher or principal who has administered punishment shall, upon request, provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

(2) Teachers and other instructional personnel shall:

- (a) Set and enforce reasonable classroom rules that treat all students equitably.
- (b) Seek professional development to improve classroom management skills when data show that they are not effective in handling minor classroom disruptions.
- (c) Maintain an orderly and disciplined classroom with a positive and effective learning environment that maximizes learning and minimizes disruption.
- (d) Work with parents and other school personnel to solve discipline problems in their classrooms.

(3) A teacher may send a student to the principal's office to maintain effective discipline in the classroom and may recommend an appropriate consequence consistent with the student code of conduct under s. 1006.07. The principal shall respond by employing the teacher's recommended consequence or a more serious disciplinary action if the student's history of disruptive behavior warrants it. If the principal determines that a lesser disciplinary action is appropriate, the principal should consult with the teacher prior to taking disciplinary action.

(4) A teacher may remove from class a student whose behavior the teacher determines interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. Each district school board, each district school superintendent, and each school principal shall support the authority of teachers to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the

student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection (6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

(6)(a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section.

(b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

(c) The Commissioner of Education shall annually review each school district's compliance with this section, and success in achieving orderly classrooms, and shall use all appropriate enforcement actions up to and including the withholding of disbursements from the Educational Enhancement Trust Fund until full compliance is verified.

(d) Placement review committee membership must include at least the following:

1. Two teachers, one selected by the school's faculty and one selected by the teacher who has

removed the student.

2. One member from the school's staff who is selected by the principal.

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

(7) Any teacher who removes 25 percent of his or her total class enrollment shall be required to complete professional development to improve classroom management skills.

(8) Each teacher or other member of the staff of any school who knows or has reason to suspect that any person has committed, or has made a credible threat to commit, a crime of violence on school property shall report such knowledge or suspicion in accordance with the provisions of s. 1006.13. Each district school superintendent and each school principal shall fully support good faith reporting in accordance with the provisions of this subsection and s. 1006.13. Any person who makes a report required by this subsection in good faith shall be immune from civil or criminal liability for making the report.

(9) When knowledgeable of the likely risk of physical violence in the schools, the district school board shall take reasonable steps to ensure that teachers, other school staff, and students are not at undue risk of violence or harm.

History.—s. 127, ch. 2002-387; s. 36, ch. 2003-391.

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### **1003.33 Report cards; end-of-the-year status.—**

(1) Each district school board shall establish and publish policies requiring the content and regular issuance of student report cards for all elementary school, middle school, and high school students. These report cards must clearly depict and grade:

(a) The student's academic performance in each class or course, which in grades 1 through 12 must be based upon examinations as well as written papers, class participation, and other academic performance criteria, and must include the student's performance or nonperformance at his or her grade level.

(b) The student's conduct and behavior.

(c) The student's attendance, including absences and tardiness.

(2) A student's final report card for a school year shall contain a statement indicating end-of-the-year status regarding performance or nonperformance at grade level, acceptable or unacceptable

behavior and attendance, and promotion or nonpromotion.

District school boards shall not allow schools to exempt students from academic performance requirements based on practices or policies designed to encourage student attendance. A student's attendance record may not be used in whole or in part to provide an exemption from any academic performance requirement.

History.—s. 128, ch. 2002-387; s. 7, ch. 2003-118.

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**1003.41 Sunshine State Standards.—**

(1) Public K-12 educational instruction in Florida is based on the “Sunshine State Standards.” The State Board of Education shall review the Sunshine State Standards and replace them with the Next Generation Sunshine State Standards that establish the core content of the curricula to be taught in this state and that specify the core content knowledge and skills that K-12 public school students are expected to acquire. The Next Generation Sunshine State Standards must, at a minimum:

(a) Establish the core curricular content for language arts, science, mathematics, and social studies, as follows:

1. Language arts standards must establish specific curricular content for, at a minimum, the reading process, literary analysis, the writing process, writing applications, communication, and information and media literacy. The standards must include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The language arts standards for grades 9 through 12 may be organized by grade clusters of more than one grade level. The language arts standards must also identify significant literary genres and authors that encompass a comprehensive range of historical periods. The State Board of Education shall, in accordance with the expedited schedule established under subsection (2), review and replace the language arts standards adopted by the state board in 2007 with Next Generation Sunshine State Standards that comply with this subparagraph.

2. Science standards must establish specific curricular content for, at a minimum, the nature of science, earth and space science, physical science, and life science. The standards must include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The science standards for grades 9 through 12 may be organized by grade clusters of more than one grade level.

3. Mathematics standards must establish specific curricular content for, at a minimum, algebra, geometry, probability, statistics, calculus, discrete mathematics, financial literacy, and trigonometry. The standards must include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The mathematics standards for grades 9 through 12 may be organized by grade clusters of more than one grade level.

4. Social studies standards must establish specific curricular content for, at a minimum, geography, United States and world history,

government, civics, economics, and humanities. The standards must include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The social studies standards for grades 9 through 12 may be organized by grade clusters of more than one grade level.

(b) Establish the core curricular content for visual and performing arts, physical education, health, and foreign languages. Standards for these subjects must establish specific curricular content and include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 5. The standards for grades 6 through 12 may be organized by grade clusters of more than one grade level.

(c) Identify the core curricular content that a student is expected to learn for each subject at each individual grade level in order to acquire the broad background knowledge needed for reading comprehension.

(d) Be rigorous and relevant and provide for the logical, sequential progression of core curricular content that incrementally increases a student’s core content knowledge and skills over time.

(e) Integrate critical-thinking and problem-solving skills; communication, reading, and writing skills; mathematics skills; collaboration skills; contextual and applied-learning skills; technology-literacy skills; information and media-literacy skills; and civic-engagement skills.

(f) Be organized according to a uniform structure and format that is consistent for each subject. The Next Generation Sunshine State Standards shall, for each subject and grade level, use the same alphanumeric coding system.

(g) Be aligned to expectations for success in postsecondary education and high-skill, high-wage employment.

(2) By December 31, 2008, the State Board of Education shall establish an expedited schedule for adoption of the Next Generation Sunshine State Standards and shall establish by rule a schedule for the periodic review and revision of the standards. The state board shall adopt the Next Generation Sunshine State Standards for each subject by December 31, 2011.

(3)(a) The Commissioner of Education shall develop and submit to the State Board of Education proposed Next Generation Sunshine State Standards, and periodically submit proposed revisions to the standards, for adoption by the state board according to the schedules established under subsection (2). The commissioner, in developing the proposed standards, shall consult with renowned experts on K-12 curricular standards and content in each subject listed in paragraphs (1)(a) and (b)

and shall consider standards that are implemented by other states or nations and regarded as exceptionally rigorous by the curricular and content experts. The commissioner may also consult with curricular and content experts in other subjects.

(b) The commissioner shall submit the proposed standards for review and comment by Florida educators, school administrators, representatives of community colleges and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education, and leaders in business and industry. The commissioner, after considering any comments and making any revisions to the proposed standards, shall submit

the standards for written evaluation by renowned experts on K-12 curricular standards and content.

(c) The commissioner, upon finalizing the proposed standards, shall submit the standards and evaluations by the curricular and content experts to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 21 days before the State Board of Education considers adoption of the proposed standards.

(4) The State Board of Education may adopt rules under ss. 120.536(1) and 120.54 to administer this section.

History.--s. 130, ch. 2002-387; s. 1, ch. 2008-235.

#### **1003.42 Required instruction.--**

(1) Each district school board shall provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education adopted standards in the following subject areas: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historic accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(a) The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.

(b) The history, meaning, significance, and effect of the provisions of the Constitution of the United States and amendments thereto, with emphasis on each of the 10 amendments that make up the Bill of Rights and how the constitution provides the structure of our government.

(c) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.

(d) Flag education, including proper flag display and flag salute.

(e) The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts.

(f) The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present.

American history shall be viewed as factual, not as constructed, shall be viewed as knowable, teachable, and testable, and shall be defined as the creation of a new nation based largely on the universal principles stated in the Declaration of Independence.

(g) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions.

(h) The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.

(i) The elementary principles of agriculture.

(j) The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind.

(k) Kindness to animals.

(l) The history of the state.

(m) The conservation of natural resources.

(n) Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; nutrition; personal health; prevention and control of disease; and substance use and abuse.

(o) Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of the State Board of Education and the district school board in fulfilling the requirements of law.

(p) The study of Hispanic contributions to the United States.

(q) The study of women's contributions to the United States.

(r) The nature and importance of free enterprise to the United States economy.

(s) A character-development program in the elementary schools, similar to Character First or Character Counts, which is secular in nature. Beginning in school year 2004-2005, the character-development program shall be required in kindergarten through grade 12. Each district school board shall develop or adopt a curriculum for the character-development program that shall be submitted to the department for approval. The character-development curriculum shall stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.

(t) In order to encourage patriotism, the sacri-

fices that veterans have made in serving our country and protecting democratic values worldwide. Such instruction must occur on or before Veterans' Day and Memorial Day. Members of the instructional staff are encouraged to use the assistance of local veterans when practicable.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection.

(3) Any student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment. A student so exempted may not be penalized by reason of that exemption. Course descriptions for comprehensive health education shall not interfere with the local determination of appropriate curriculum which reflects local values and concerns.

History--s. 131, ch. 2002-387; s. 22, ch. 2006-74.

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### **1003.428 General requirements for high school graduation; revised.--**

(1) Except as otherwise authorized pursuant to s. 1003.429, beginning with students entering their first year of high school in the 2007-2008 school year, graduation requires the successful completion of a minimum of 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum. Students must be advised of eligibility requirements for state scholarship programs and postsecondary admissions.

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education and shall be distributed as follows:

(a) Sixteen core curriculum credits:

1. Four credits in English, with major concentration in composition, reading for information, and literature.

2. Four credits in mathematics, one of which must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course. School districts are encouraged to set specific goals to increase enrollments in, and successful completion of, geometry and Algebra II.

3. Three credits in science, two of which must have a laboratory component.

4. Three credits in social studies as follows: one credit in American history; one credit in world history; one-half credit in economics; and one-half credit in American government.

5. One credit in fine or performing arts, speech and debate, or a practical arts course that incorporates artistic content and techniques of creativity, interpretation, and imagination. Eligible practical arts courses shall be identified through the Course Code Directory.

6. One credit in physical education to include

integration of health. Participation in an interscholastic sport at the junior varsity or varsity level for two full seasons shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of "C" or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a dance class shall satisfy one-half credit in physical education or one-half credit in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan. Completion of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class, a significant component of which is drills, shall satisfy the one-credit requirement in physical education and the one-credit requirement in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan.

(b) Eight credits in majors, minors, or electives

1. Four credits in a major area of interest, such as sequential courses in a career and technical program, fine and performing arts, or academic content area, selected by the student as part of the education plan required by s. 1003.4156. Students may revise major areas of interest each year as part of annual course registration processes and should update their education plan to reflect such revisions. Annually by October 1, the district school board shall approve major areas of interest and submit the list

of majors to the Commissioner of Education for approval. Each major area of interest shall be deemed approved unless specifically rejected by the commissioner within 60 days. Upon approval, each district's major areas of interest shall be available for use by all school districts and shall be posted on the department's website.

2. Four credits in elective courses selected by the student as part of the education plan required by s. 1003.4156. These credits may be combined to allow for a second major area of interest pursuant to subparagraph 1., a minor area of interest, elective courses, or intensive reading or mathematics intervention courses as described in this subparagraph.

a. Minor areas of interest are composed of three credits selected by the student as part of the education plan required by s. 1003.4156 and approved by the district school board.

b. Elective courses are selected by the student in order to pursue a complete education program as described in s. 1001.41(3) and to meet eligibility requirements for scholarships.

c. For each year in which a student scores at Level 1 on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9).

d. For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year. These courses may be taught through applied, integrated, or combined courses and are subject to approval by the department for inclusion in the Course Code Directory.

(3)(a) A district school board may require specific courses and programs of study within the minimum credit requirements for high school graduation and shall modify basic courses, as necessary, to assure exceptional students the opportunity to meet the graduation requirements for a standard diploma, using one of the following strategies:

1. Assignment of the exceptional student to an exceptional education class for instruction in a basic course with the same student performance standards as those required of nonexceptional students in the district school board student progression plan; or

2. Assignment of the exceptional student to a basic education class for instruction that is modified to accommodate the student's exceptionality.

(b) The district school board shall determine which of these strategies to employ based upon an

assessment of the student's needs and shall reflect this decision in the student's individual education plan.

(4) Each district school board shall establish standards for graduation from its schools, which must include:

(a) Successful completion of the academic credit or curriculum requirements of subsections (1) and (2).

(b) Earning passing scores on the FCAT, as defined in s. 1008.22(3)(c), or scores on a standardized test that are concordant with passing scores on the FCAT as defined in s. 1008.22(10).

(c) Completion of all other applicable requirements prescribed by the district school board pursuant to s. 1008.25.

(d) Achievement of a cumulative grade point average of 2.0 on a 4.0 scale, or its equivalent, in the courses required by this section.

Each district school board shall adopt policies designed to assist students in meeting the requirements of this subsection. These policies may include, but are not limited to: forgiveness policies, summer school or before or after school attendance, special counseling, volunteers or peer tutors, school-sponsored help sessions, homework hotlines, and study skills classes. Forgiveness policies for required courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in the same or comparable course. Forgiveness policies for elective courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in another course. The only exception to these forgiveness policies shall be made for a student in the middle grades who takes any high school course for high school credit and earns a grade of "C," "D," or "F" or the equivalent of a grade of "C," "D," or "F." In such case, the district forgiveness policy must allow the replacement of the grade with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in the same or comparable course. In all cases of grade forgiveness, only the new grade shall be used in the calculation of the student's grade point average. Any course grade not replaced according to a district school board forgiveness policy shall be included in the calculation of the cumulative grade point average required for graduation.

(5) The State Board of Education, after a public hearing and consideration, shall adopt rules based upon the recommendations of the commissioner for the provision of test accommodations and modifications of procedures as necessary for students with disabilities which will demonstrate the student's abilities rather than reflect the student's impaired sensory, manual, speaking, or psychological process

skills.

(6) The public hearing and consideration required in subsection (5) shall not be construed to amend or nullify the requirements of security relating to the contents of examinations or assessment instruments and related materials or data as prescribed in s. 1008.23.

(7)(a) A student who meets all requirements prescribed in subsections (1), (2), (3), and (4) shall be awarded a standard diploma in a form prescribed by the State Board of Education.

(b) A student who completes the minimum number of credits and other requirements prescribed by subsections (1), (2), and (3), but who is unable to meet the standards of paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d), shall be awarded a certificate of completion in a form prescribed by the State Board of Education. However, any student who is otherwise entitled to a certificate of completion may elect to remain in the secondary school either as a full-time student or a part-time student for up to 1 additional year and receive special instruction designed to remedy his or her identified deficiencies.

(8)(a) Each district school board must provide instruction to prepare students with disabilities to demonstrate proficiency in the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation.

(b) A student with a disability, as defined in s. 1007.02(2), for whom the individual education plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities taking into consideration all allowable accommodations, shall have the FCAT requirement of paragraph (4)(b) waived for the purpose of receiving a standard high school diploma, if the student:

1. Completes the minimum number of credits

and other requirements prescribed by subsections (1), (2), and (3).

2. Does not meet the requirements of paragraph (4)(b) after one opportunity in 10th grade and one opportunity in 11th grade.

(9) The Commissioner of Education may award a standard high school diploma to honorably discharged veterans who started high school between 1937 and 1946 and were scheduled to graduate between 1941 and 1950 but were inducted into the United States Armed Forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements. Upon the recommendation of the commissioner, the State Board of Education may develop criteria and guidelines for awarding such diplomas.

(10) The Commissioner of Education may award a standard high school diploma to honorably discharged veterans who started high school between 1946 and 1950 and were scheduled to graduate between 1950 and 1954, but were inducted into the United States Armed Forces between June 27, 1950, and January 31, 1955, and served during the Korean Conflict prior to completing the necessary high school graduation requirements. Upon the recommendation of the commissioner, the State Board of Education may develop criteria and guidelines for awarding such diplomas.

(11) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section and may enforce the provisions of this section pursuant to s. 1008.32.

History.—s. 23, ch. 2006-74; s. 6, ch. 2007-234; s. 180, ch. 2008-4; s. 7, ch. 2008-235.

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### **1003.429 Accelerated high school graduation options.—**

(1) Students who enter grade 9 in the 2006-2007 school year and thereafter may select, upon receipt of each consent required by this section, one of the following three high school graduation options:

(a) Completion of the general requirements for high school graduation pursuant to s. 1003.43;

(b) Completion of a 3-year standard college preparatory program requiring successful completion of a minimum of 18 academic credits in grades 9 through 12. At least 6 of the 18 credits required for completion of this program must be received in classes that are offered pursuant to the International Baccalaureate Program, the Advanced Placement Program, dual enrollment, Advanced International Certificate of Education, or specifically listed or identified by the Department of Education as rigorous pursuant to s. 1009.531(3). The 18 credits required for completion of this program shall be primary requirements and shall be distributed as follows:

1. Four credits in English, with major concen-

tration in composition and literature;

2. Three credits in mathematics at the Algebra I level or higher from the list of courses that qualify for state university admission;

3. Three credits in natural science, two of which must have a laboratory component;

4. Three credits in social sciences, which must include one credit in American history, one credit in world history, one-half credit in American government, and one-half credit in economics;

5. Two credits in the same second language unless the student is a native speaker of or can otherwise demonstrate competency in a language other than English. If the student demonstrates competency in another language, the student may replace the language requirement with two credits in other academic courses; and

6. Three credits in electives; or

(c) Completion of a 3-year career preparatory program requiring successful completion of a minimum of 18 academic credits in grades 9 through 12. The 18 credits shall be primary requirements and

shall be distributed as follows:

1. Four credits in English, with major concentration in composition and literature;
2. Three credits in mathematics, one of which must be Algebra I;
3. Three credits in natural science, two of which must have a laboratory component;
4. Three credits in social sciences, which must include one credit in American history, one credit in world history, one-half credit in American government, and one-half credit in economics;
5. Three credits in a single vocational or career education program, three credits in career and technical certificate dual enrollment courses, or five credits in vocational or career education courses; and
6. Two credits in electives unless five credits are earned pursuant to subparagraph 5.

Any student who selected an accelerated graduation program before July 1, 2004, may continue that program, and all statutory program requirements that were applicable when the student made the program choice shall remain applicable to the student as long as the student continues that program.

(2) Prior to selecting a program described in paragraph (1)(b) or paragraph (1)(c), a student and the student's parent must meet with designated school personnel to receive an explanation of the relative requirements, advantages, and disadvantages of each program option, and the student must also receive the written consent of the student's parent.

(3) Beginning with the 2006-2007 school year, each district school board shall provide each student in grades 6 through 9 and their parents with information concerning the 3-year and 4-year high school graduation options listed in subsection (1), including the respective curriculum requirements for those options, so that the students and their parents may select the program that best fits their needs. The information must include a timeframe for achieving each graduation option.

(4) Selection of one of the graduation options listed in subsection (1) must be completed by the student prior to the end of grade 9 and is exclusively up to the student and parent, subject to the requirements in subsection (2). Each district school board shall establish policies for extending this deadline to the end of a student's first semester of grade 10 for a student who entered a Florida public school after grade 9 upon transfer from a private school or another state or who was prevented from choosing a graduation option due to illness during grade 9. If the student and parent fail to select a graduation option, the student shall be considered to have selected the general requirements for high school graduation pursuant to paragraph (1)(a).

(5) District school boards may not establish requirements for accelerated 3-year high school

graduation options in excess of the requirements in paragraphs (1)(b) and (c).

(6) Students pursuing accelerated 3-year high school graduation options pursuant to paragraph (1)(b) or paragraph (1)(c) are required to:

(a) Earn passing scores on the FCAT as defined in s. 1008.22(3)(c) or scores on a standardized test that are concordant with passing scores on the FCAT as defined in s. 1008.22(10).

(b)1. Achieve a cumulative weighted grade point average of 3.5 on a 4.0 scale, or its equivalent, in the courses required for the college preparatory accelerated 3-year high school graduation option pursuant to paragraph (1)(b); or

2. Achieve a cumulative weighted grade point average of 3.0 on a 4.0 scale, or its equivalent, in the courses required for the career preparatory accelerated 3-year high school graduation option pursuant to paragraph (1)(c).

(c) Receive a weighted or unweighted grade that earns at least 3.0 points, or its equivalent, to earn course credit toward the 18 credits required for the college preparatory accelerated 3-year high school graduation option pursuant to paragraph (1)(b).

(d) Receive a weighted or unweighted grade that earns at least 2.0 points, or its equivalent, to earn course credit toward the 18 credits required for the career preparatory accelerated 3-year high school graduation option pursuant to paragraph (1)(c).

Weighted grades referred to in paragraphs (b), (c), and (d) shall be applied to those courses specifically listed or identified by the department as rigorous pursuant to s. 1009.531(3) or weighted by the district school board for class ranking purposes.

(7) If, at the end of grade 10, a student is not on track to meet the credit, assessment, or grade-point-average requirements of the accelerated graduation option selected, the school shall notify the student and parent of the following:

(a) The requirements that the student is not currently meeting.

(b) The specific performance necessary in grade 11 for the student to meet the accelerated graduation requirements.

(c) The right of the student to change to the 4-year program set forth in s. 1003.43.

(8) A student who selected one of the accelerated 3-year graduation options shall automatically move to the 4-year program set forth in s. 1003.43 if the student:

(a) Exercises his or her right to change to the 4-year program;

(b) Fails to earn 5 credits by the end of grade 9 or fails to earn 11 credits by the end of grade 10;

(c) Does not achieve a score of 3 or higher on the grade 10 FCAT Writing assessment; or

(d) By the end of grade 11 does not meet the requirements of subsections (1) and (6).

(9) A student who meets all requirements prescribed in subsections (1) and (6) shall be awarded a standard diploma in a form prescribed by the State Board of Education.

History.—s. 12, ch. 2003-391; s. 1, ch. 2004-42; s. 24, ch. 2006-74; s. 9, ch. 2008-235.

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**1003.43 General requirements for high school graduation.—**

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(a) Four credits in English, with major concentration in composition and literature.

(b) Three credits in mathematics. Effective for students entering the 9th grade in the 1997-1998 school year and thereafter, one of these credits must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course.

(c) Three credits in science, two of which must have a laboratory component. Agriscience Foundations I, the core course in secondary Agriscience and Natural Resources programs, counts as one of the science credits.

(d) One credit in American history.

(e) One credit in world history, including a comparative study of the history, doctrines, and objectives of all major political systems.

(f) One-half credit in economics, including a comparative study of the history, doctrines, and objectives of all major economic systems. The Florida Council on Economic Education shall provide technical assistance to the department and district school boards in developing curriculum materials for the study of economics.

(g) One-half credit in American government, including study of the Constitution of the United States. For students entering the 9th grade in the 1997-1998 school year and thereafter, the study of Florida government, including study of the State Constitution, the three branches of state government, and municipal and county government, shall be included as part of the required study of American government.

(h)1. One credit in practical arts career education or exploratory career education. Any career education course as defined in s. 1003.01 may be taken to satisfy the high school graduation requirement for one credit in practical arts or exploratory career education provided in this subparagraph;

2. One credit in performing fine arts to be selected from music, dance, drama, painting, or sculpture. A course in any art form, in addition to painting or sculpture, that requires manual dexterity, or a course in speech and debate, may be taken to satisfy the high school graduation requirement for one credit in performing arts pursuant to this subparagraph; or

3. One-half credit each in practical arts career education or exploratory career education and per-

forming fine arts, as defined in this paragraph.

Such credit for practical arts career education or exploratory career education or for performing fine arts shall be made available in the 9th grade, and students shall be scheduled into a 9th grade course as a priority.

(i) One-half credit in life management skills to include consumer education, positive emotional development, marriage and relationship skill-based education, nutrition, parenting skills, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking.

(j) One credit in physical education to include assessment, improvement, and maintenance of personal fitness. Participation in an interscholastic sport at the junior varsity or varsity level, for two full seasons, shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of "C" or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a Reserve Officer Training Corps (R.O.T.C.) class a significant component of which is drills shall satisfy a one-half credit requirement in physical education. This one-half credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual educational plan (IEP) or 504 plan.

(k) Eight and one-half elective credits.

District school boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. District school boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through

grade 12 that is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholars award requirements as specified in a district school board's student progression plan. A student shall be granted credit toward meeting the requirements of this subsection for equivalent courses, as identified pursuant to s. 1007.271(6), taken through dual enrollment.

(2) Remedial and compensatory courses taken in grades 9 through 12 may only be counted as elective credit as provided in subsection (1).

(3) Credit for high school graduation may be earned for volunteer activities and nonacademic activities which have been approved for such credit by the State Board of Education.

(4)(a) A district school board may require specific courses and programs of study within the minimum credit requirements for high school graduation and shall modify basic courses, as necessary, to assure exceptional students the opportunity to meet the graduation requirements for a standard diploma, using one of the following strategies:

1. Assignment of the exceptional student to an exceptional education class for instruction in a basic course with the same student performance standards as those required of nonexceptional students in the district school board student progression plan; or

2. Assignment of the exceptional student to a basic education class for instruction that is modified to accommodate the student's exceptionality.

(b) The district school board shall determine which of these strategies to employ based upon an assessment of the student's needs and shall reflect this decision in the student's individual educational plan.

(c) District school boards are authorized and encouraged to establish requirements for high school graduation in excess of the minimum requirements; however, an increase in academic credit or minimum grade point average requirements shall not apply to those students enrolled in grades 9 through 12 at the time the district school board increases the requirements. In addition, any increase in academic credit or minimum grade point average requirements shall not apply to a student who earns credit toward the graduation requirements of this section for equivalent courses taken through dual enrollment.

(5) Each district school board shall establish standards for graduation from its schools, and these standards must include:

(a) Earning passing scores on the FCAT, as defined in s. 1008.22(3)(c), or scores on a standardized test that are concordant with passing scores on the FCAT as defined in s. 1008.22(10).

(b) Completion of all other applicable requirements prescribed by the district school board pursuant to s. 1008.25.

(c) Achievement of a cumulative grade point average of 1.5 on a 4.0 scale, or its equivalent, for

students entering 9th grade before the 1997-1998 school year; however, these students must earn a cumulative grade point average of 2.0 on a 4.0 scale, or its equivalent, in the courses required by subsection (1) that are taken after July 1, 1997, or have an overall cumulative grade point average of 2.0 or above.

(d) Achievement of a cumulative grade point average of 2.0 on a 4.0 scale, or its equivalent, in the courses required by subsection (1), for students entering 9th grade in the 1997-1998 school year and thereafter.

(e) For purposes of paragraphs (c) and (d)

1. Each district school board shall adopt policies designed to assist students in meeting these requirements. These policies may include, but are not limited to: forgiveness policies, summer school or before or after school attendance, special counseling, volunteer and/or peer tutors, school-sponsored help sessions, homework hotlines, and study skills classes. Beginning in the 2000-2001 school year and each year thereafter, forgiveness policies for required courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in the same or comparable course. Forgiveness policies for elective courses shall be limited to replacing a grade of "D" or "F," or the equivalent of a grade of "D" or "F," with a grade of "C" or higher, or the equivalent of a grade of "C" or higher, earned subsequently in another course. Any course grade not replaced according to a district school board forgiveness policy shall be included in the calculation of the cumulative grade point average required for graduation.

2. At the end of each semester, the parent of each student in grades 9, 10, 11, and 12 who has a cumulative grade point average of less than 0.5 above the cumulative grade point average required for graduation shall be notified that the student is at risk of not meeting the requirements for graduation. The notice shall contain an explanation of the policies the district school board has in place to assist the student in meeting the grade point average requirement.

3. Special assistance to obtain a high school equivalency diploma pursuant to s. 1003.435 may be given only when the student has completed all requirements for graduation except the attainment of the required cumulative grade point average.

The standards required in this subsection, and any subsequent modifications, shall be reprinted in the Florida Administrative Code even though not defined as "rules."

(6) The Legislature recognizes that adult learners are unique in situation and needs. The following graduation requirements are therefore instituted for students enrolled in adult general education in accordance with s. 1004.93 in pursuit of a high school

diploma:

(a) The one credit in physical education required for graduation, pursuant to subsection (1), is not required for graduation and shall be substituted with elective credit keeping the total credits needed for graduation consistent with subsection (1).

(b) Each district school board may waive the laboratory component of the science requirement expressed in subsection (1) when such facilities are inaccessible or do not exist.

(c) Any course listed within the Department of Education Course Code Directory in the areas of art, dance, drama, or music may be undertaken by adult secondary education students. Enrollment and satisfactory completion of such a course shall satisfy the credit in performing fine arts required for high school graduation pursuant to subsection (1).

(7) No student may be granted credit toward high school graduation for enrollment in the following courses or programs:

(a) More than a total of nine elective credits in remedial programs.

(b) More than one credit in exploratory career education courses as defined in s. 1003.01(4)(a).

(c) More than three credits in practical arts family and consumer sciences classes as defined in s. 1003.01(4)(a).

(d) Any Level I course unless the student's assessment indicates that a more rigorous course of study would be inappropriate, in which case a written assessment of the need must be included in the student's individual educational plan or in a student performance plan, signed by the principal, the guidance counselor, and the parent of the student, or the student if the student is 18 years of age or older.

(8) The State Board of Education, after a public hearing and consideration, shall adopt rules based upon the recommendations of the commissioner for the provision of test accommodations and modifications of procedures as necessary for students with disabilities which will demonstrate the student's abilities rather than reflect the student's impaired sensory, manual, speaking, or psychological process skills.

(9) The public hearing and consideration required in subsection (8) shall not be construed to amend or nullify the requirements of security relating to the contents of examinations or assessment instruments and related materials or data as prescribed in s. 1008.23.

(10)(a) A student who meets all requirements prescribed in subsections (1), (4), and (5) shall be awarded a standard diploma in a form prescribed by the State Board of Education. A district school board may attach the Florida gold seal career endorsement to a standard diploma or, instead of the standard diploma, award differentiated diplomas to those exceeding the prescribed minimums.

(b) A student who completes the minimum number of credits and other requirements prescribed

by subsections (1) and (4), but who is unable to meet the standards of paragraph (5)(a), paragraph (5)(b), or paragraph (5)(c), shall be awarded a certificate of completion in a form prescribed by the State Board of Education. However, any student who is otherwise entitled to a certificate of completion may elect to remain in the secondary school either as a full-time student or a part-time student for up to 1 additional year and receive special instruction designed to remedy his or her identified deficiencies.

(11)(a) Each district school board must provide instruction to prepare students with disabilities to demonstrate proficiency in the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation.

(b) A student with a disability, as defined in s. 1007.02(2), for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities taking into consideration all allowable accommodations, shall have the FCAT requirement of paragraph (5)(a) waived for the purpose of receiving a standard high school diploma, if the student:

1. Completes the minimum number of credits and other requirements prescribed by subsections (1) and (4).

2. Does not meet the requirements of paragraph (5)(a) after one opportunity in 10th grade and one opportunity in 11th grade.

(12) The Commissioner of Education may award a standard high school diploma to honorably discharged veterans who started high school between 1937 and 1946 and were scheduled to graduate between 1941 and 1950 but were inducted into the United States Armed Forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements. Upon the recommendation of the commissioner, the State Board of Education may develop criteria and guidelines for awarding such diplomas.

(13) The Commissioner of Education may award a standard high school diploma to honorably discharged veterans who started high school between 1946 and 1950 and were scheduled to graduate between 1949 and 1955, but were inducted into the United States Armed Forces between June 1949 and January 1955, and served during the Korean War prior to completing the necessary high school graduation requirements. Upon the recommendation of the commissioner, the State Board of Education may develop criteria and guidelines for awarding such diplomas.

History.—s. 1, ch. 2002-278; s. 132, ch. 2002-387; s. 2, ch. 2003-8; s. 11, ch. 2003-391; s. 39, ch. 2004-41; s. 2, ch. 2004-42; s. 1, ch. 2004-223; s. 83, ch. 2004-357; s. 10, ch. 2008-235.

Note.—As amended by s. 1, ch. 2004-223. Subsection (13) was also amended by s. 39, ch. 2004-41, the School Code Rewrite corrections bill, and that version reads:

(13) The Commissioner of Education may award a standard high school diploma to honorably discharged veterans who started high

school between 1946 and 1950 and were scheduled to graduate between 1950 and 1954, but were inducted into the United States Armed Forces between June 27, 1950, and January 31, 1955, and served during the Korean Conflict prior to completing the necessary high school graduation

requirements. Upon the recommendation of the commissioner, the State Board of Education may develop criteria and guidelines for awarding such diplomas.

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**1003.433 Learning opportunities for out-of-state and out-of-country transfer students and students needing additional instruction to meet high school graduation requirements.—**

(1) Students who enter a Florida public school at the eleventh or twelfth grade from out of state or from a foreign country shall not be required to spend additional time in a Florida public school in order to meet the high school course requirements if the student has met all requirements of the school district, state, or country from which he or she is transferring. Such students who are not proficient in English should receive immediate and intensive instruction in English language acquisition. However, to receive a standard high school diploma, a transfer student must earn a 2.0 grade point average and pass the grade 10 FCAT required in s. 1008.22(3) or an alternate assessment as described in s. 1008.22(10).

(2) Students who have met all requirements for the standard high school diploma except for passage of the grade 10 FCAT or an alternate assessment by the end of grade 12 must be provided the following learning opportunities:

(a) Participation in an accelerated high school equivalency diploma preparation program during the summer.

(b) Upon receipt of a certificate of completion, be allowed to take the College Placement Test and be admitted to remedial or credit courses at a state community college, as appropriate.

(c) Participation in an adult general education program as provided in s. 1004.93 for such time as the student requires to master English, reading, mathematics, or any other subject required for high

school graduation. Students attending adult basic, adult secondary, or vocational-preparatory instruction are exempt from any requirement for the payment of tuition and fees, including lab fees, pursuant to s. 1009.25. A student attending an adult general education program shall have the opportunity to take the grade 10 FCAT an unlimited number of times in order to receive a standard high school diploma.

(3) Students who have been enrolled in an ESOL program for less than 2 school years and have met all requirements for the standard high school diploma except for passage of the grade 10 FCAT or alternate assessment may receive immersion English language instruction during the summer following their senior year. Students receiving such instruction are eligible to take the FCAT or alternate assessment and receive a standard high school diploma upon passage of the grade 10 FCAT or the alternate assessment. This subsection shall be implemented to the extent funding is provided in the General Appropriations Act.

(4) The district school superintendent shall be responsible for notifying all students of the consequences of failure to receive a standard high school diploma, including the potential ineligibility for financial assistance at postsecondary educational institutions.

(5) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

History.—s. 1, ch. 2003-413; s. 11, ch. 2008-235.

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**1003.435 High school equivalency diploma program.—**

(1) The State Board of Education shall adopt rules that prescribe performance standards and provide for comprehensive examinations to be administered to candidates for high school equivalency diplomas. Such rules shall include, but are not limited to, provisions for fees, frequency of examinations, and procedures for retaking an examination upon unsatisfactory performance.

(2) The department may award high school equivalency diplomas to candidates who meet the performance standards prescribed by the State Board of Education.

(3) Each district school board shall offer and administer the high school equivalency diploma examinations and the subject area examinations to all candidates pursuant to rules of the State Board of Education.

(4) A candidate for a high school equivalency diploma shall be at least 18 years of age on the date of the examination, except that in extraordinary

circumstances, as provided for in rules of the district school board of the district in which the candidate resides or attends school, a candidate may take the examination after reaching the age of 16.

(5) Each district school board shall develop, in cooperation with the area community college board of trustees, a plan for the provision of advanced instruction for those students who attain satisfactory performance on the high school equivalency examination or the subject area examinations or who demonstrate through other means a readiness to engage in postsecondary-level academic work. The plan shall include provisions for the equitable distribution of generated funds to cover personnel, maintenance, and other costs of offering the advanced instruction. Priority shall be given to programs of advanced instruction offered in high school facilities.

(6)(a) All high school equivalency diplomas issued under the provisions of this section shall have equal status with other high school diplomas for all state purposes, including admission to any state

university or community college.

(b) The State Board of Education shall adopt rules providing for the award of a standard high school diploma to holders of high school equivalency diplomas who are assessed as meeting designated

criteria, and the commissioner shall establish procedures for administering the assessment.

History.—s. 133, ch. 2002-387.

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**1003.436 Definition of “credit”.—**

(1)(a) For the purposes of requirements for high school graduation, one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards. One full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards for purposes of meeting high school graduation requirements in a district school that has been authorized to implement block scheduling by the district school board. The State Board of Education shall determine the number of postsecondary credit hours earned through dual enrollment pursuant to s. 1007.271 that satisfy the requirements of a district’s interinstitutional articulation agreement according to s. 1007.235 and that equal one full credit of the equivalent high school course identified pursuant to s. 1007.271(6).

(b) The hourly requirements for one-half credit are one-half the requirements specified in paragraph (a).

(2) In awarding credit for high school gradua-

tion, each district school board shall maintain a one-half credit earned system that shall include courses provided on a full-year basis. A student enrolled in a full-year course shall receive one-half credit if the student successfully completes either the first half or the second half of a full-year course but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would not result in a passing grade. A student enrolled in a full-year course shall receive a full credit if the student successfully completes either the first half or the second half of a full-year course but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would result in a passing grade, provided that such additional requirements specified in district school board policies, such as class attendance, homework, participation, and other indicators of performance, shall be successfully completed by the student.

History.—s. 134, ch. 2002-387; s. 14, ch. 2003-391.

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**1003.437 Middle and high school grading system.—**

The grading system and interpretation of letter grades used for students in public schools in grades 6-12 shall be as follows:

(1) Grade “A” equals 90 percent through 100 percent, has a grade point average value of 4, and is defined as “outstanding progress.”

(2) Grade “B” equals 80 percent through 89 percent, has a grade point average value of 3, and is defined as “above average progress.”

(3) Grade “C” equals 70 percent through 79 percent, has a grade point average value of 2, and is defined as “average progress.”

(4) Grade “D” equals 60 percent through 69

percent, has a grade point average value of 1, and is defined as “lowest acceptable progress.”

(5) Grade “F” equals zero percent through 59 percent, has a grade point average value of zero, and is defined as “failure.”

(6) Grade “I” equals zero percent, has a grade point average value of zero, and is defined as “incomplete.”

For the purposes of class ranking, district school boards may exercise a weighted grading system pursuant to s. 1007.271.

History.—s. 135, ch. 2002-387; s. 25, ch. 2006-74.

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**1003.438 Special high school graduation requirements for certain exceptional students.—**

A student who has been identified, in accordance with rules established by the State Board of Education, as a student with disabilities who has an intellectual disability; an autism spectrum disorder; a language impairment; an orthopedic impairment; an other health impairment; a traumatic brain injury; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; or students who are deaf or hard of hearing or dual sensory impaired shall not be required to meet all requirements of s. 1003.43 or s. 1003.428 and shall, upon meeting all applicable requirements prescribed by

the district school board pursuant to s. 1008.25, be awarded a special diploma in a form prescribed by the commissioner; however, such special graduation requirements prescribed by the district school board must include minimum graduation requirements as prescribed by the commissioner. Any such student who meets all special requirements of the district school board, but is unable to meet the appropriate special state minimum requirements, shall be awarded a special certificate of completion in a form prescribed by the commissioner. However, this section does not limit or restrict the right of an exceptional student solely to a special diploma or special certificate of completion. Any such student shall, upon proper request, be afforded the opportu-

nity to fully meet all requirements of s. 1003.43 or s. 1003.428 through the standard procedures established therein and thereby to qualify for a standard diploma upon graduation.

History.—s. 136, ch. 2002-387; s. 5, ch. 2008-204.

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**1003.49 Graduation and promotion requirements for publicly operated schools.—**

(1) Each state or local public agency, including the Department of Children and Family Services, the Department of Corrections, the boards of trustees of universities and community colleges, and the Board of Trustees of the Florida School for the Deaf and the Blind, which agency is authorized to operate educational programs for students at any level of grades kindergarten through 12 shall be subject to all applicable requirements of ss. 1003.43, 1008.23,

and 1008.25. Within the content of these cited statutes each such state or local public agency or entity shall be considered a “district school board.”

(2) The Commissioner of Education shall establish procedures to extend the state-administered assessment program to school programs operated by such state or local public agencies or entities in the same manner and to the same extent as such program is administered in each district school system.

History.—s. 142, ch. 2002-387.

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**1003.51 Other public educational services.—**

(1) The general control of other public educational services shall be vested in the State Board of Education except as provided herein. The State Board of Education shall, at the request of the Department of Children and Family Services and the Department of Juvenile Justice, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education shall provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the district school board. These services shall be supported out of state, district, federal, or other lawful funds, depending on the requirements of the services being supported.

(2) The State Board of Education shall adopt and maintain an administrative rule articulating expectations for effective education programs for youth in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice commitment and detention facilities. The rule shall articulate policies and standards for education programs for youth in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, district school boards, and providers of education services to youth in Department of Juvenile Justice programs.

(c) Academic expectations

(d) Service delivery options available to district school boards, including direct service and contracting.

(e) Assessment procedures, which

1. Include appropriate academic and career assessments administered at program entry and exit

that are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, district school boards, and providers.

2. Require district school boards to be responsible for ensuring the completion of the assessment process.

3. Require assessments for students in detention who will move on to commitment facilities, to be designed to create the foundation for developing the student’s education program in the assigned commitment facility.

4. Require assessments of students sent directly to commitment facilities to be completed within the first 10 school days of the student’s commitment.

The results of these assessments, together with a portfolio depicting the student’s academic and career accomplishments, shall be included in the discharge package assembled for each youth.

(f) Recommended instructional programs, including, but not limited to, career training and job preparation.

(g) Funding requirements, which shall include the requirement that at least 90 percent of the FEFP funds generated by students in Department of Juvenile Justice programs or in an education program for juveniles under s. 985.19 be spent on instructional costs for those students. One hundred percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs must be spent on appropriate categoricals such as instructional materials and public school technology for those students.

(h) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures to ensure consistent instruction and qualified staff year round.

(i) Transition services, including the roles and responsibilities of appropriate personnel in school districts, provider organizations, and the Department of Juvenile Justice.

(j) Procedures and timeframe for transfer of education records when a youth enters and leaves a

facility.

(k) The requirement that each district school board maintain an academic transcript for each student enrolled in a juvenile justice facility that delineates each course completed by the student as provided by the State Course Code Directory.

(l) The requirement that each district school board make available and transmit a copy of a student's transcript in the discharge packet when the student exits a facility.

(m) Contract requirements

(n) Performance expectations for providers and district school boards, including the provision of a progress monitoring plan as required in s. 1008.25.

(o) The role and responsibility of the district school board in securing workforce development funds.

(p) A series of graduated sanctions for district school boards whose educational programs in Department of Juvenile Justice facilities are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice facility has failed a quality assurance review and, after 6 months, is still performing below minimum standards.

(q) Other aspects of program operations

(3) The Department of Education in partnership with the Department of Juvenile Justice, the district school boards, and providers shall:

(a) Maintain model contracts for the delivery of appropriate education services to youth in Department of Juvenile Justice programs to be used for the development of future contracts. The model contracts shall reflect the policy and standards included in subsection (2). The Department of Education shall ensure that appropriate district school board personnel are trained and held accountable for the management and monitoring of contracts for education programs for youth in juvenile justice residential and nonresidential facilities.

(b) Maintain model procedures for transitioning youth into and out of Department of Juvenile Justice programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Maintain standardized required content of education records to be included as part of a youth's commitment record. These requirements shall reflect the policy and standards adopted pursuant to sub-

section (2) and shall include, but not be limited to, the following:

1. A copy of the student's individual educational plan.

2. Assessment data, including grade level proficiency in reading, writing, and mathematics, and performance on tests taken according to s. 1008.22.

3. A copy of the student's permanent cumulative record.

4. A copy of the student's academic transcript.

5. A portfolio reflecting the youth's academic accomplishments while in the Department of Juvenile Justice program.

(d) Maintain model procedures for securing the education record and the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a commitment or detention facility. District school boards shall respond to requests for student education records received from another district school board or a juvenile justice facility within 5 working days after receiving the request.

(4) The Department of Education shall ensure that district school boards notify students in juvenile justice residential or nonresidential facilities who attain the age of 16 years of the provisions of law regarding compulsory school attendance and make available the option of enrolling in a program to attain a Florida high school diploma by taking the general educational development test prior to release from the facility. District school boards or community colleges, or both, shall waive GED testing fees for youth in Department of Juvenile Justice residential programs and shall, upon request, designate schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs as GED testing centers, subject to GED testing center requirements. The administrative fees for the general education development test required by the Department of Education are the responsibility of district school boards and may be required of providers by contractual agreement.

(5) The Department of Education shall establish and operate, either directly or indirectly through a contract, a mechanism to provide quality assurance reviews of all juvenile justice education programs and shall provide technical assistance and related research to district school boards and providers on how to establish, develop, and operate educational programs that exceed the minimum quality assurance standards.

History.—s. 145, ch. 2002-387; s. 3, ch. 2004-333; s. 85, ch. 2004-357; s. 28, ch. 2006-74; s. 172, ch. 2007-5; s. 7, ch. 2007-234.

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### **1003.52 Educational services in Department of Juvenile Justice programs.—**

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of Department of Juvenile Justice programs. It is the goal

of the Legislature that youth in the juvenile justice system continue to be allowed the opportunity to obtain a high quality education. The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of

Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, district school boards, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice programs and reporting on the results.

(c) Developing academic and career protocols that provide guidance to district school boards and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel and interdepartmental district school board or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

(2) Students participating in Department of Juvenile Justice programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located shall provide appropriate educational assessments and an appropriate program of instruction and special education services.

(a) The district school board shall make provisions for each student to participate in basic, career education, and exceptional student programs as appropriate. Students served in Department of Juvenile Justice programs shall have access to the appropriate courses and instruction to prepare them for the GED test. Students participating in GED preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the GED exit option for all juvenile justice programs.

(b) By October 1, 2004, the Department of Education, with the assistance of the school districts,

shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The assessment instrument and protocol must be implemented in all juvenile justice education programs in this state by January 1, 2005.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available by the local school district during the juvenile justice school year, as defined in s. 1003.01(11). In addition, students in juvenile justice education programs shall have access to Florida Virtual School courses. The Department of Education and the school districts shall adopt policies necessary to ensure such access.

(5) The educational program shall consist of appropriate basic academic, career, or exceptional curricula and related services which support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. If the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and career employability skills.

(6) Participation in the program by students of compulsory school-attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the general educational development test and attain a Florida high school diploma prior to release from a facility. A youth who has received a high school diploma or its equivalent and is not employed shall participate in workforce development or other career or technical education or community college or university courses while in the program, subject to available funding.

(7) A progress monitoring plan shall be developed for students who score below the level specified in district school board policy in reading, writing, and mathematics or below the level specified by the Commissioner of Education on statewide assessments as required by s. 1008.25. These plans shall address academic, literacy, and life skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice facility as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student's academic record

in the discharge packet when the student exits the facility.

(9) The Department of Education shall ensure that all district school boards make provisions for high school level youth to earn credits toward high school graduation while in residential and nonresidential juvenile justice facilities. Provisions must be made for the transfer of credits and partial credits earned.

(10) The district school board shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the district school board operates the educational program shall be selected by the district school board in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities shall have access to the substitute teacher pool utilized by the district school board. Full-time teachers working in juvenile justice schools, whether employed by a district school board or a provider, shall be eligible for the critical teacher shortage tuition reimbursement program as defined by s. 1009.58 and other teacher recruitment and retention programs.

(11) District school boards may contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The district school board's planning and budgeting process shall include the needs of Department of Juvenile Justice programs in the district school board's plan for expenditures for state categorical and federal funds.

(12) The district school board shall fund the educational program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the district school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.

(a) Juvenile justice educational programs shall be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 1011.62.

(b) Juvenile justice educational programs to receive the appropriate FEFP funding for Department of Juvenile Justice programs shall include those operated through a contract with the Department of Juvenile Justice and which are under purview of the

Department of Juvenile Justice quality assurance standards for education.

(c) Consistent with the rules of the State Board of Education, district school boards are required to request an alternative FTE survey for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

(13) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to youths under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with juvenile delinquents.

(i) Transition plans for students moving into and out of juvenile facilities.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the quality assurance process.

(14) Nothing in this section or in a cooperative agreement shall be construed to require the district

school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(15)(a) The Department of Education in consultation with the Department of Juvenile Justice, district school boards, and providers shall establish objective and measurable quality assurance standards for the educational component of residential and nonresidential juvenile justice facilities. These standards shall rate the district school board's performance both as a provider and contractor. The quality assurance rating for the educational component shall be disaggregated from the overall quality assurance score and reported separately.

(b) The Department of Education shall develop a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs. The Department of Juvenile Justice quality assurance site visit and the education quality assurance site visit shall be conducted during the same visit.

(c) The Department of Education, in consultation with district school boards and providers, shall establish minimum thresholds for the standards and key indicators for educational programs in juvenile justice facilities. If a district school board fails to meet the established minimum standards, it will be given 6 months to achieve compliance with the standards. If after 6 months, the district school board's performance is still below minimum standards, the Department of Education shall exercise sanctions as prescribed by rules adopted by the State Board of Education. If a provider, under contract with the district school board, fails to meet minimum standards, such failure shall cause the district school board to cancel the provider's contract unless the provider achieves compliance within 6 months or unless there are documented extenuating circumstances.

(16) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

(17) When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the district school board and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria

as provided by State Board of Education rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(18) The parent of an exceptional student shall have the due process rights provided for in this chapter.

(19) The Department of Education and the Department of Juvenile Justice, after consultation with and assistance from local providers and district school boards, shall report annually to the Legislature by February 1 on the progress toward developing effective educational programs for juvenile delinquents, including the amount of funding provided by district school boards to juvenile justice programs, the amount retained for administration including documenting the purposes for such expenses, the status of the development of cooperative agreements, the results of the quality assurance reviews including recommendations for system improvement, and information on the identification of, and services provided to, exceptional students in juvenile justice commitment facilities to determine whether these students are properly reported for funding and are appropriately served.

(20) The educational programs at the Arthur Dozier School for Boys in Jackson County and the Florida School for Boys in Okeechobee shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited education agencies approved by the Department of Education.

(21) The State Board of Education may adopt any rules necessary to implement the provisions of this section, including uniform curriculum, funding, and second chance schools. Such rules must require the minimum amount of paperwork and reporting.

(22) The Department of Juvenile Justice and the Department of Education, in consultation with Workforce Florida, Inc., the statewide Workforce Development Youth Council, district school boards, community colleges, providers, and others, shall jointly develop a multiagency plan for career education which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.

History.—s. 146, ch. 2002-387; s. 166, ch. 2004-5; s. 40, ch. 2004-41; s. 4, ch. 2004-333; s. 86, ch. 2004-357; s. 29, ch. 2006-74; s. 127, ch. 2006-120.

**1003.53 Dropout prevention and academic intervention.—**

(1)(a) Dropout prevention and academic intervention programs may differ from traditional educational programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and shall employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. The educational program shall provide curricula, character development and law education, and related services that support the program goals and lead to improved performance in the areas of academic achievement, attendance, and discipline. Student participation in such programs shall be voluntary. District school boards may, however, assign students to a program for disruptive students. Notwithstanding any other provision of law to the contrary, no student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based solely on the student being from a single-parent family.

(b) Students in grades 1-12 shall be eligible for dropout prevention and academic intervention programs. Eligible students shall be reported in the appropriate basic cost factor in the Florida Education Finance Program. The strategies and supports provided to eligible students shall be funded through the General Appropriations Act and may include, but are not limited to, those services identified on the student's academic intervention plan.

(c) A student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based upon one of the following criteria:

1. The student is academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or district proficiency levels in reading, mathematics, or writing.

2. The student has a pattern of excessive absenteeism or has been identified as a habitual truant.

3. The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or

b. Severely threatens the general welfare of

students or others with whom the student comes into contact.

(d)1. "Second chance schools" means district school board programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for waivers by the Commissioner of Education from State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings.

2. District school boards seeking to enter into a partnership with a private entity or public entity to operate a second chance school for disruptive students may apply to the Department of Education for startup grants. These grants must be available for 1 year and must be used to offset the startup costs for implementing such programs off public school campuses. General operating funds must be generated through the appropriate programs of the Florida Education Finance Program. Grants approved under this program shall be for the full operation of the school by a private nonprofit or for-profit provider or the public entity. This program must operate under rules adopted by the State Board of Education and be implemented to the extent funded by the Legislature.

3. A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 1003.01.

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

4. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 3. are met.

5. A student may be assigned to a second chance school if the district school board in which the student resides has a second chance school and if the student meets one of the following criteria:

a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the district school board.

b. The student interferes with the student's own

learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "serious offense" is behavior which:

- (I) Threatens the general welfare of students or others with whom the student comes into contact;
  - (II) Includes violence
  - (III) Includes possession of weapons or drugs;
- or
- (IV) Is harassment or verbal abuse of school personnel or other students.

6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

7. Students assigned to second chance schools must be evaluated by the district school board's child study team before placement in a second chance school. The study team shall ensure that students are not eligible for placement in a program for emotionally disturbed children.

8. Students who exhibit academic and social progress and who wish to return to a traditional school shall complete a character development and law education program and demonstrate preparedness to reenter the regular school setting prior to reentering a traditional school.

(2)(a) Each district school board may establish dropout prevention and academic intervention programs at the elementary, middle, junior high school, or high school level. Programs designed to eliminate patterns of excessive absenteeism or habitual truancy shall emphasize academic performance and may provide specific instruction in the areas of career education, preemployment training, and behavioral management. Such programs shall utilize instructional teaching methods appropriate to the specific needs of the student.

(b) Each school that establishes a dropout prevention and academic intervention program at that school site shall reflect that program in the school improvement plan as required under s. 1001.42(18).

(3) Each district school board receiving state funding for dropout prevention and academic intervention programs through the General Appropriations Act shall submit information through an annual report to the Department of Education's database documenting the extent to which each of the district's dropout prevention and academic intervention programs has been successful in the areas of gradu-

ation rate, dropout rate, attendance rate, and retention/promotion rate. The department shall compile this information into an annual report which shall be submitted to the presiding officers of the Legislature by February 15.

(4) Each district school board shall establish procedures for ensuring that teachers assigned to dropout prevention and academic intervention programs possess the affective, pedagogical, and content-related skills necessary to meet the needs of these students.

(5) Each district school board providing a dropout prevention and academic intervention program pursuant to this section shall maintain for each participating student records documenting the student's eligibility, the length of participation, the type of program to which the student was assigned or the type of academic intervention services provided, and an evaluation of the student's academic and behavioral performance while in the program. The school principal or his or her designee shall, prior to placement in a dropout prevention and academic intervention program or the provision of an academic service, provide written notice of placement or services by certified mail, return receipt requested, to the student's parent. The parent of the student shall sign an acknowledgment of the notice of placement or service and return the signed acknowledgment to the principal within 3 days after receipt of the notice. The parents of a student assigned to such a dropout prevention and academic intervention program shall be notified in writing and entitled to an administrative review of any action by school personnel relating to such placement pursuant to the provisions of chapter 120.

(6) District school board dropout prevention and academic intervention programs shall be coordinated with social service, law enforcement, prosecutorial, and juvenile justice agencies and juvenile assessment centers in the school district. Notwithstanding the provisions of s. 1002.22, these agencies are authorized to exchange information contained in student records and juvenile justice records. Such information is confidential and exempt from the provisions of s. 119.07(1). District school boards and other agencies receiving such information shall use the information only for official purposes connected with the certification of students for admission to and for the administration of the dropout prevention and academic intervention program, and shall maintain the confidentiality of such information unless otherwise provided by law or rule.

(7) The State Board of Education shall have the authority pursuant to ss. 120.536(1) and 120.54 to adopt rules necessary to implement the provisions of this section; such rules shall require the minimum amount of necessary paperwork and reporting.

History.--s. 147, ch. 2002-387; s. 18, ch. 2008-108.

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**1003.54 Teenage parent programs.—**

(1) Each district school board shall maintain a teenage parent program.

(2) “Teenage parent programs” means educational programs designed to provide a specialized curriculum to meet the needs of students who are pregnant or students who are mothers or fathers and the children of the students.

(3)(a) The program shall provide pregnant students or students who are parents and the children of these students with a comprehensive teenage parent program. The program shall provide pregnant students or students who are parents with the option of participating in regular classroom activities or enrolling in a special program designed to meet their needs pursuant to s. 1003.21. Students participating in teenage parent programs shall be exempt from minimum attendance requirements for absences related to pregnancy or parenting, but shall be required to make up work missed due to absence.

(b) The curriculum shall include instruction in such topics as prenatal and postnatal health care, parenting skills, benefits of sexual abstinence, and consequences of subsequent pregnancies. Parenting skills should include instruction in the stages of child growth and development, methods for aiding in the intellectual, language, physical, and social development of children, and guidance on constructive play activities.

(c) Provision for necessary child care, health care, social services, parent education, and trans-

portation shall be ancillary service components of teenage parent programs. Ancillary services may be provided through the coordination of existing programs and services and through joint agreements between district school boards and local school readiness coalitions or other appropriate public and private providers.

(d) The district school board shall make adequate provisions for pregnant and parenting teenagers to complete the coursework necessary to earn a high school diploma.

(e) Children enrolled in child care provided by the district shall be funded at the special program cost factor pursuant to s. 1011.62 if the parent or parents are enrolled full time in a public school in the district.

(4) Districts may modify courses listed in the State Course Code Directory for the purpose of providing teenage parent programs pursuant to the provisions of this section. Such modifications must be approved by the commissioner and may include lengthening or shortening of the school time allotted for in-class study, alternate methods of assessment of student performance, and the integration of curriculum frameworks or student performance standards to produce interdisciplinary units of instruction.

(5) The State Board of Education shall adopt rules necessary to implement the provisions of this section.

History.—s. 148, ch. 2002-387; s. 14, ch. 2004-484.

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**1003.55 Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students.—**

(1) The Department of Education may establish a coordinating unit and instructional materials center for visually impaired students and deaf or hard-of-hearing students to provide staff and resources for the coordination, cataloging, standardizing, producing, procuring, storing, and distributing of braille, large print, tangible apparatus, captioned films and video tapes, and other specialized educational materials needed by these students and other exceptional students. The coordinating unit shall have as its major purpose the improvement of instructional programs for visually impaired students and deaf or hard-of-hearing students and may, as a second priority, extend appropriate services to other exceptional students, consistent with provisions and criteria established, to the extent that resources are available.

(2) The unit shall be operated under rules adopted by the State Board of Education.

(3) As used in this section, the term

(a) “Blind student” means a student who is eligible for special education services and who:

1. Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited

field of vision such that the widest diameter subtends an angular distance of no greater than 20 degrees; or

2. Has a medically indicated expectation of visual deterioration.

(b) “Braille” means the system of reading and writing through touch commonly known as standard English braille.

(c) “Individualized education program” means a written statement developed for a student eligible for special education services pursuant to s. 602(a)(20), Part A of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1401(a).

(4) In developing an individualized written education program for each blind student, the presumption shall be that blind students can communicate effectively and efficiently with the same level of proficiency expected of the students’ peers of comparable ability and grade level. Accordingly, proficiency in reading and writing braille shall be considered during the individualized planning and assessment processes in this context.

(5) Any publisher of a textbook adopted pursuant to the state instructional materials adoption process shall furnish the Department of Education with a computer file in an electronic format specified by the department at least 2 years in advance that

is readily translatable to braille and can be used for large print or speech access. Any textbook reproduced pursuant to the provisions of this subsection shall be purchased at a price equal to the price paid for the textbook as adopted. The Department of Education shall not reproduce textbooks obtained pursuant to this subsection in any manner that would

generate revenues for the department from the use of such computer files or that would preclude the rightful payment of fees to the publisher for use of all or some portion of the textbook.

History.—s. 149, ch. 2002-387.

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**1003.56 English language instruction for limited English proficient students.—**

(1) Instruction in the English language shall be provided to limited English proficient students. Such instruction shall be designed to develop the student's mastery of the four language skills, including listening, speaking, reading, and writing, as rapidly as possible.

(2)(a) "Limited English proficient" or "limited English proficiency," when used with reference to an individual, means:

1.a. An individual who was not born in the United States and whose native language is a language other than English;

b. An individual who comes from a home environment where a language other than English is spoken in the home; or

c. An individual who is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and

2. Who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English.

(b) "Home language" or "native language," when used with reference to an individual of limited English proficiency, means the language normally used by such individual or, in the case of a student, the language normally used by the parents of the student.

(c) "ESOL" means English for Speakers of Other Languages and:

1. When modifying instruction, the strategy used to teach limited English proficient students; or  
2. When modifying program, the program funded in the Florida Education Finance Program, listed under English for Speakers of Other Languages in s. 1011.62.

(3) Each district school board shall implement the following procedures:

(a) Develop and submit a plan for providing English language instruction for limited English proficient students to the Department of Education for review and approval.

(b) Identify limited English proficient students through assessment.

(c) Provide for student exit from and reclassification into the program.

(d) Provide limited English proficient students ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of reading, mathematics, science, social studies, and computer literacy.

(e) Maintain a student plan

(f) Provide qualified teachers

(g) Provide equal access to other programs for eligible limited English proficient students based on need.

(h) Provide for parental involvement in the program.

(4) Each district school board's program for limited English proficient students shall be evaluated and monitored periodically.

(5) The State Board of Education shall adopt rules for the purpose of implementing this section.

History.—s. 150, ch. 2002-387.

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**1003.57 Exceptional students instruction.—**

(1) Each district school board shall provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the State Board of Education as acceptable, including provisions that:

(a) The district school board provide the necessary professional services for diagnosis and evaluation of exceptional students.

(b) The district school board provide the special instruction, classes, and services, either within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet standards established by the commissioner.

(c) The district school board annually provide information describing the Florida School for the Deaf and the Blind and all other programs and methods of instruction available to the parent of a sensory-impaired student.

(d) The district school board, once every 3 years, submit to the department its proposed procedures for the provision of special instruction and services for exceptional students.

(e) A student may not be given special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed in the manner prescribed by rules of the State Board of Education. The parent of an exceptional student evaluated and placed or denied placement in a program of special education shall

be notified of each such evaluation and placement or denial. Such notice shall contain a statement informing the parent that he or she is entitled to a due process hearing on the identification, evaluation, and placement, or lack thereof. Such hearings shall be exempt from the provisions of ss. 120.569, 120.57, and 286.011, except to the extent that the State Board of Education adopts rules establishing other procedures and any records created as a result of such hearings shall be confidential and exempt from the provisions of s. 119.07(1). The hearing must be conducted by an administrative law judge from the Division of Administrative Hearings of the Department of Management Services. The decision of the administrative law judge shall be final, except that any party aggrieved by the finding and decision rendered by the administrative law judge shall have the right to bring a civil action in the circuit court. In such an action, the court shall receive the records of the administrative hearing and shall hear additional evidence at the request of either party. In the alternative, any party aggrieved by the finding and decision rendered by the administrative law judge shall have the right to request an impartial review of the administrative law judge's order by the district court of appeal as provided by s. 120.68. Notwithstanding any law to the contrary, during the pendency of any proceeding conducted pursuant to this section, unless the district school board and the parents otherwise agree, the student shall remain in his or her then-current educational assignment or, if applying for initial admission to a public school, shall be assigned, with the consent of the parents, in the public school program until all such proceedings have been completed.

(f) In providing for the education of exceptional students, the district school superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students to the maximum extent appropriate. Segregation of exceptional students shall occur only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(g) In addition to the services agreed to in a student's individual education plan, the district school superintendent shall fully inform the parent of a student having a physical or developmental disability of all available services that are appropriate for the student's disability. The superintendent shall provide the student's parent with a summary of the

student's rights.

(2)(a) An exceptional student with a disability who resides in a residential facility and receives special instruction or services is considered a resident of the state in which the student's parent is a resident. The cost of such instruction, facilities, and services for a nonresident student with a disability shall be provided by the placing authority in the student's state of residence, such as a public school entity, other placing authority, or parent. A nonresident student with a disability may not be reported by any school district for FTE funding in the Florida Education Finance Program.

(b) The Department of Education shall provide to each school district a statement of the specific limitations of the district's financial obligation for exceptional students with disabilities under federal and state law. The department shall also provide to each school district technical assistance as necessary for developing a local plan to impose on a student's home state the fiscal responsibility for educating a nonresident exceptional student with a disability.

(c) The Department of Education shall develop a process by which a school district must, before providing services to an exceptional student with a disability who resides in a residential facility in this state, review the residency of the student. The residential facility, not the district, is responsible for billing and collecting from a nonresidential student's home state payment for the student's educational and related services.

(d) The Department of Education shall formulate an interagency agreement or other mechanism for billing and collecting from a nonresidential student's home state payment for the student's educational and related services.

(e) This subsection applies to any nonresident student with a disability who resides in a residential facility and who receives instruction as an exceptional student with a disability in any type of residential facility in this state, including, but not limited to, a public school, a private school, a group home facility as defined in s. 393.063, an intensive residential treatment program for children and adolescents as defined in s. 395.002, a facility as defined in s. 394.455, an intermediate care facility for the developmentally disabled or ICF/DD as defined in s. 393.063 or s. 400.960, or a community residential home as defined in s. 419.001.

History.—s. 151, ch. 2002-387; s. 30, ch. 2006-74.

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**1003.575 Assistive technology devices; findings; interagency agreements.**— Accessibility, utilization, and coordination of appropriate assistive technology devices and services are essential as a young person with disabilities moves from early intervention to preschool, from preschool to school, from one school to another, and from school to

employment or independent living. To ensure that an assistive technology device issued to a young person as part of his or her individualized family support plan, individual support plan, or an individual education plan remains with the individual through such transitions, the following agencies shall enter into interagency agreements, as appropriate, to ensure

the transaction of assistive technology devices:

- (1) The Florida Infants and Toddlers Early Intervention Program in the Division of Children's Medical Services of the Department of Health.
- (2) The Division of Blind Services, the Bureau of Exceptional Education and Student Services, and the Division of Vocational Rehabilitation of the Department of Education.
- (3) The Voluntary Prekindergarten Education Program administered by the Department of Education and the Agency for Workforce Innovation. Interagency agreements entered into pursuant

to this section shall provide a framework for ensuring that young persons with disabilities and their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services that may assist in meeting transition needs, and shall establish a mechanism by which a young person or his or her parent may request that an assistive technology device remain with the young person as he or she moves through the continuum from home to school to postschool.

History.—s. 1, ch. 2005-188.

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**1003.576 Individual education plans for exceptional students.**--The Department of Education must develop and have an operating electronic IEP system in place for potential statewide use no later than July 1, 2007. The statewide system shall be developed collaboratively with school districts and

must include input from school districts currently developing or operating electronic IEP systems.

History.—s. 31, ch. 2006-74.

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**1003.58 Students in residential care facilities.**—Each district school board shall provide educational programs according to rules of the State Board of Education to students who reside in residential care facilities operated by the Department of Children and Family Services or the Agency for Persons with Disabilities.

size of space and occupant design capacity criteria as provided by state board rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property. The planning of such additional facilities shall incorporate current state deinstitutionalization goals and plans.

(1) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Children and Family Services or the Agency for Persons with Disabilities, as appropriate.

(3) The district school board shall have full and complete authority in the matter of the assignment and placement of such students in educational programs. The parent of an exceptional student shall have the same due process rights as are provided under s. 1003.57(1)(e).

(2) If additional facilities are required, the district school board and the Department of Children and Family Services or the Agency for Persons with Disabilities, as appropriate, shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the department or agency in accordance with chapter 216. Any instructional facility to be built on state property shall have educational specifications jointly developed by the school district and the department or agency and approved by the Department of Education. The

(4) The district school board shall have a written agreement with the Department of Children and Family Services and the Agency for Persons with Disabilities outlining the respective duties and responsibilities of each party.

Notwithstanding the provisions herein, the educational program at the Marianna Sunland Center in Jackson County shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited educational agencies approved by the Department of Education.

History.—s. 152, ch. 2002-387; s. 32, ch. 2006-74; s. 68, ch. 2006-227.



Florida Statutes Pertaining to Special Programs  
Chapter 1004  
Public Postsecondary Education

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**1004.44 Louis de la Parte Florida Mental Health Institute.**—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(1) The purpose of the institute is to strengthen mental health services throughout the state by providing technical assistance and support services to mental health agencies and mental health professionals. Such assistance and services shall include:

- (a) Technical training and specialized education.
  - (b) Development, implementation, and evaluation of mental health service programs.
  - (c) Evaluation of availability and effectiveness of existing mental health services.
  - (d) Analysis of factors that influence the incidence and prevalence of mental and emotional disorders.
  - (e) Dissemination of information about innovations in mental health services.
  - (f) Consultation on all aspects of program development and implementation.
  - (g) Provisions for direct client services, provided for a limited period of time either in the institute facility or in other facilities within the state, and limited to purposes of research or training.
- (2) The Department of Children and Family

Services is authorized to designate the Louis de la Parte Florida Mental Health Institute a treatment facility for the purpose of accepting voluntary and involuntary clients in accordance with institute programs. Clients to be admitted are exempted from prior screening by a community mental health center.

(3) The institute may provide direct services in coordination with other agencies. The institute may also provide support services to state agencies through joint programs, collaborative agreements, contracts, and grants.

(4) The institute shall operate under the authority of the President of the University of South Florida and shall employ a mental health professional as director. The director shall hold a faculty appointment in a university's college or department related to mental health within the university. The director has primary responsibility for establishing active liaisons with the community of mental health professionals and other related constituencies in the state and may, with approval of the university president, establish appropriate statewide advisory groups to assist in developing these communication links.

*History.—s. 190, ch. 2002-387.*

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**1004.55 Regional autism centers.**—

(1) Seven regional autism centers are established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Service delivery shall be consistent for all centers. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(a) The Department of Communication Disorders at Florida State University, which serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(b) The College of Medicine at the University of Florida, which serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties.

(c) The University of Florida Health Science Center at Jacksonville, which serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties.

(d) The Louis de la Parte Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

(e) The Mailman Center for Child Development and the Department of Psychology at the University of Miami, which serves Broward, Miami-Dade, and Monroe Counties.

(f) The College of Health and Public Affairs at the University of Central Florida, which serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties.

(g) The Department of Exceptional Student Education at Florida Atlantic University, which serves Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties.

(2) There is established for each center a constituency board, which shall work collaboratively with the center. Each board shall consist of no fewer than six members, each of whom is either an individual who has a disability that is described in subsection (1) or is a member of a family that includes a person who has such a disability, who are selected by each university president from a list that has been developed by the Autism Society of Florida and other relevant constituency groups that represent persons who have sensory impairments as described in subsection (1). As representatives of the center's constituencies, these boards shall meet quarterly with the staff of each of the centers to provide advice on policies, priorities, and activities. Each board shall submit to the university president and to the Department of Education an annual report that evaluates the activities and accomplishments of its center during the year. The board for each center should raise funds equivalent to 2 percent of the total funds allocated to that center in each fiscal year.

(3) To promote statewide planning and coordination, a conference must be held annually for staff from each of the seven centers and representatives from each center's constituency board. The purpose of the conference is to facilitate coordination, networking, cross-training, and feedback among the staffs and constituency boards of the centers.

(4) Each center shall provide

(a) A staff that has expertise in autism and autistic-like behaviors and in sensory impairments.

(b) Individual and direct family assistance in the home, community, and school. A center's assistance should not supplant other responsibilities of state and local agencies, and each school district is responsible for providing an appropriate education program for clients of a center who are school age.

(c) Technical assistance and consultation services, including specific intervention and assistance for a client of the center, the client's family, and the school district, and any other services that are appropriate.

(d) Professional training programs that include developing, providing, and evaluating preservice and inservice training in state-of-the-art practices for personnel who work with the populations served by the centers and their families.

(e) Public education programs to increase awareness of the public about autism, autistic-related disabilities of communication and behavior, dual sensory impairments, and sensory impairments with other handicapping conditions.

(5) The State Board of Education, in cooperation with the regional autism centers, shall adopt the necessary rules to carry out the purposes of this section.

History.--s. 202, ch. 2002-387; s. 1, ch. 2005-49; s. 183, ch. 2008-4; s. 6, ch. 2008-204.

# Florida Statutes Pertaining to Special Programs

## Chapter 1006

### Support for Learning

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#### **1006.03 Diagnostic and learning resource centers.—**

(1) The department shall maintain regional diagnostic and learning resource centers for exceptional students, to assist in the provision of medical, physiological, psychological, and educational testing and other services designed to evaluate and diagnose exceptionalities, to make referrals for necessary instruction and services, and to facilitate the provision of instruction and services to exceptional students. The department shall cooperate with the Department of Children and Family Services in identifying service needs and areas.

(2) Within its identified service area, each regional center shall:

(a) Provide assistance to parents, teachers, and other school personnel and community organizations in locating and identifying exceptional children and planning educational programs for them.

(b) Assist in the provision of services for exceptional children, using to the maximum, but not supplanting, the existing facilities and services of each district.

(c) Provide orientation meetings at least annually for teachers, principals, supervisors, and community agencies to familiarize them with center facilities and services for exceptional children.

(d) Plan, coordinate, and assist in the implementation of inservice training programs, consistent with each district's program of staff development, for the development and updating of attitudes, skills,

and instructional practices and procedures necessary to the education of exceptional children.

(e) Assist districts in the identification, selection, acquisition, use, and evaluation of media and materials appropriate to the implementation of instructional programs based on individual educational plans for exceptional children.

(f) Provide for the dissemination and diffusion of significant information and promising practices derived from educational research, demonstration, and other projects.

(g) Assist in the delivery, modification, and integration of instructional technology, including microcomputer applications and adaptive and assistive devices, appropriate to the unique needs of exceptional students.

(3) Diagnostic and resource centers may provide testing and evaluation services to private school students and other children who are not enrolled in public schools.

(4) Diagnostic and learning resource centers may assist districts in providing testing and evaluation services for infants and preschool children with or at risk of developing disabilities, and may assist districts in providing interdisciplinary training and resources to parents of infants and preschool children with or at risk of developing disabilities and to school readiness programs.

History.—s. 267, ch. 2002-387.

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#### **1006.04 Educational multiagency services for students with severe emotional disturbance.—**

(1)(a) An intensive, integrated educational program; a continuum of mental health treatment services; and, when needed, residential services are necessary to enable students with severe emotional disturbance to develop appropriate behaviors and demonstrate academic and career education skills. The small incidence of severe emotional disturbance in the total school population requires multiagency programs to provide access to appropriate services for all students with severe emotional disturbance. District school boards should provide educational programs, and state departments and agencies administering children's mental health funds should provide mental health treatment and residential services when needed, forming a multiagency network to provide support for students with severe emotional disturbance.

(b) The program goals for each component of the multiagency network are to enable students with severe emotional disturbance to learn appropriate

behaviors, reduce dependency, and fully participate in all aspects of school and community living; to develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services; to provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and to integrate a wide range of services necessary to support students with severe emotional disturbance and their families.

(2) The department may award grants to district school boards for statewide planning and development of the multiagency network for students with severe emotional disturbance. The educational services shall be provided in a manner consistent with the requirements of ss. 402.22 and 1003.57.

(3) State departments and agencies may use appropriate funds for the multiagency network for students with severe emotional disturbance.

History.—s. 269, ch. 2002-387.

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**1006.062 Administration of medication and provision of medical services by district school board personnel.—**

(1) Notwithstanding the provisions of the Nurs Practice Act, part I of chapter 464, district school board personnel may assist students in the administration of prescription medication when the following conditions have been met:

(a) Each district school board shall include in its approved school health services plan a procedure to provide training, by a registered nurse, a licensed practical nurse, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459, to the school personnel designated by the school principal to assist students in the administration of prescribed medication. Such training may be provided in collaboration with other school districts, through contract with an education consortium, or by any other arrangement consistent with the intent of this subsection.

(b) Each district school board shall adopt policies and procedures governing the administration of prescription medication by district school board personnel. The policies and procedures shall include, but not be limited to, the following provisions:

1. For each prescribed medication, the student's parent shall provide to the school principal a written statement which grants to the school principal or the principal's designee permission to assist in the administration of such medication and which explains the necessity for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business. The school principal or the principal's trained designee shall assist the student in the administration of the medication.

2. Each prescribed medication to be administered by district school board personnel shall be received, counted, and stored in its original container. When the medication is not in use, it shall be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.

(2) There shall be no liability for civil damages as a result of the administration of the medication when the person administering the medication acts

as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.

(3) Nonmedical district school board personnel shall not be allowed to perform invasive medical services that require special medical knowledge, nursing judgment, and nursing assessment, including, but not limited to:

- (a) Sterile catheterization.
- (b) Nasogastric tube feeding
- (c) Cleaning and maintaining a tracheostomy and deep suctioning of a tracheostomy.

(4) Nonmedical assistive personnel shall be allowed to perform health-related services upon successful completion of child-specific training by a registered nurse or advanced registered nurse practitioner licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. All procedures shall be monitored periodically by a nurse, advanced registered nurse practitioner, physician assistant, or physician, including, but not limited to:

- (a) Intermittent clean catheterization.
- (b) Gastrostomy tube feeding
- (c) Monitoring blood glucose
- (d) Administering emergency injectable medication.

(5) For all other invasive medical services not listed in this subsection, a registered nurse or advanced registered nurse practitioner licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459 shall determine if nonmedical district school board personnel shall be allowed to perform such service.

(6) Each district school board shall establish emergency procedures in accordance with s. 381.0056(5) for life-threatening emergencies.

(7) District school board personnel shall not refer students to or offer students at school facilities contraceptive services without the consent of a parent or legal guardian. To the extent that this subsection conflicts with any provision of chapter 381, the provisions of chapter 381 control.

*History.—s. 274, ch. 2002-387.*

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**1006.0625 Administration of psychotropic medication; prohibition; conditions.—**

(1) As used in this section, the term "psychotropic medication" means a prescription medication that is used for the treatment of mental disorders and includes, without limitation, antihypnotics, antipsychotics, antidepressants, anxiety agents, sedatives, psychomotor stimulants, and mood stabilizers.

(2) A public school may not deny any student access to programs or services because the parent of the student has refused to place the student on

psychotropic medication.

(3) A public school teacher and school district personnel may share school-based observations of a student's academic, functional, and behavioral performance with the student's parent and offer program options and other assistance that is available to the parent and the student based on the observations. However, a public school teacher and school district personnel may not compel or attempt to compel any specific actions by the parent or require that a student take medication. A parent may refuse psychological screening of the student.

Any medical decision made to address a student's needs is a matter between the student, the student's parent, and a competent health care

professional chosen by the parent.

History.—s. 6, ch. 2005-65.

**1006.07 District school board duties relating to student discipline and school safety.**—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) CONTROL OF STUDENTS.—

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline.

(b) Require each student at the time of initial registration for school in the school district to note previous school expulsions, arrests resulting in a charge, and juvenile justice actions the student has had, and have the authority as the district school board of a receiving school district to honor the final order of expulsion or dismissal of a student by any in-state or out-of-state public district school board or private school, or lab school, for an act which would have been grounds for expulsion according to the receiving district school board's code of student conduct, in accordance with the following procedures:

1. A final order of expulsion shall be recorded in the records of the receiving school district.

2. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program at the direction of the district school board.

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code

shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

(c) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(d) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(e) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.

(f) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution.

(g) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(h) Notice that violation of district school board

transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

(k) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(l) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

(3) **STUDENT CRIME WATCH PROGRAM.**—By resolution of the district school board, implement a student crime watch program to promote responsibility among students and to assist in the control of criminal behavior within the schools.

(4) **EMERGENCY DRILLS; EMERGENCY PROCEDURES.**—

(a) Formulate and prescribe policies and

procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, and bomb threats, for all the public schools of the district which comprise grades K-12. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes.

(b) The district school board shall establish model emergency management and emergency preparedness procedures for the following life-threatening emergencies:

1. Weapon-use and hostage situations.
2. Hazardous materials or toxic chemical spills
3. Weather emergencies, including hurricanes, tornadoes, and severe storms.
4. Exposure as a result of a manmade emergency.

(5) **EDUCATIONAL SERVICES IN DETENTION FACILITIES.**—Offer educational services to minors who have not graduated from high school and eligible students with disabilities under the age of 22 who have not graduated with a standard diploma or its equivalent who are detained in a county or municipal detention facility as defined in s. 951.23. These educational services shall be based upon the estimated length of time the student will be in the facility and the student's current level of functioning. District school superintendents or their designees shall be notified by the county sheriff or chief correctional officer, or his or her designee, upon the assignment of a student under the age of 21 to the facility. A cooperative agreement with the district school board and applicable law enforcement units shall be developed to address the notification requirement and the provision of educational services to these students.

(6) **SAFETY AND SECURITY BEST PRACTICES.**—Use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the district school superintendent shall provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security. Annually each district school board must receive the self-assessment results at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the report findings. Each district school superintendent shall report the self-assessment results and school board action to the commissioner within 30 days after the district school board meeting.

History.—s. 277, ch. 2002-387; s. 1, ch. 2004-272.

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**1006.08 District school superintendent duties relating to student discipline and school safety.–**

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the

principal beyond 10 school days if such suspension period expires before the next regular or special meeting of the district school board.

(2) Notwithstanding the provisions of s. 985.04(7) or any other provision of law to the contrary, the court shall, within 48 hours of the finding, notify the appropriate district school superintendent of the name and address of any student found to have committed a delinquent act, or who has had adjudication of a delinquent act withheld which, if committed by an adult, would be a felony, or the name and address of any student found guilty of a felony. Notification shall include the specific delinquent act found to have been committed or for which adjudication was withheld, or the specific felony for which the student was found guilty.

(3) Except to the extent necessary to protect the health, safety, and welfare of other students, the information obtained by the district school superintendent pursuant to this section may be released only to appropriate school personnel or as otherwise provided by law.

History.—s. 278, ch. 2002-387; s. 38, ch. 2003-391; s. 128, ch. 2006-120.

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**1006.09 Duties of school principal relating to student discipline and school safety.–**

(1)(a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith

effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assign-

ment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or the principal's designee shall include an analysis of suspensions and expulsions in the annual report of school progress.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself,

or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) A student may be disciplined or expelled for unlawful possession or use of any substance controlled under chapter 893 upon the third violation of this provision.

(4) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the school principal shall make full and effective use of the provisions of subsection (2) and s. 1006.13(5). A school principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay policy incentive or the differentiated pay under s. 1012.22. However, if any party responsible for notification fails to properly notify the school, the school principal shall be eligible for the incentive or differentiated pay.

(5) Any recommendation for the suspension or expulsion of a student with a disability must be made in accordance with rules adopted by the State Board of Education.

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each school principal to report data concerning school safety and discipline.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to

search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search

for illegally possessed substances or objects.

History.—s. 279, ch. 2002-387; s. 39, ch. 2003-391; s. 36, ch. 2006-74.

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**1006.10 Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses.—**

(1) The school bus driver shall require order and good behavior by all students being transported on school buses.

(2) The district school board shall require a system of progressive discipline of transported students for actions which are prohibited by the code of student conduct. Disciplinary actions, including suspension of students from riding on district school board owned or contracted school buses, shall be subject to district school board policies and procedures and may be imposed by the principal or the principal's designee. The principal or the principal's designee may delegate any disciplinary authority to school bus drivers except for suspension of students from riding the bus.

(3) The school bus driver shall control students during the time students are on the school bus, but shall not have such authority when students are waiting at the school bus stop or when students are en route to or from the school bus stop except when the bus is present at the bus stop.

(4) If an emergency should develop due to

the conduct of students on the bus, the school bus driver may take such steps as are immediately necessary to protect the students on the bus.

(5) School bus drivers shall not be required to operate a bus under conditions in which one or more students pose a clear and present danger to the safety of the driver or other students, or the safety of the bus while in operation. The district school board shall have measures in place designed to protect the school bus driver from threats or physical injury from students.

(6) District school boards may use transportation, school safety, or FEFP funds to provide added security for buses transporting disruptive or delinquent students to and from school or other educational activities.

(7) In the case of a student having engaged in violent or blatantly unsafe actions while riding the school bus, the district school board shall take corrective measures to ensure, to the extent feasible, that such actions are not repeated prior to reassigning the student to the bus.

History.—s. 280, ch. 2002-387.

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**1006.13 Policy of zero tolerance for crime and victimization.—**

(1) Each district school board shall adopt a policy of zero tolerance for:

(a) Crime and substance abuse, including the reporting of delinquent acts and crimes occurring whenever and wherever students are under the jurisdiction of the district school board.

(b) Victimization of students, including taking all steps necessary to protect the victim of any violent crime from any further victimization.

(2) The zero tolerance policy shall require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-

year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student with a disability, the district school board shall comply with applicable State Board of Education rules.

(3) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult, are reported to law enforcement. Each district school board shall adopt a cooperative agreement, pursuant to s. 1003.52(13) with the Department of Juvenile Justice, that specifies guidelines for ensuring that all no contact orders entered by the court are reported and enforced and that all steps necessary are taken to protect the victim of any such crime. Such agreements shall include the role of school resource officers, if applicable, in handling reported incidents, special circumstances in which school officials may handle incidents without filing a report to law enforcement, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and

crimes. The school principal shall be responsible for ensuring that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

(4) Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed a violation of s. 784.081(1), (2), or (3) shall be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

(5)(a) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any student who is attending public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

1. Chapter 782, relating to homicide
2. Chapter 784, relating to assault, battery, and culpable negligence;
3. Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;
4. Chapter 794, relating to sexual battery
5. Chapter 800, relating to lewdness and indecent exposure;
6. Chapter 827, relating to abuse of children
7. Section 812.13, relating to robbery
8. Section 812.131, relating to robbery by sudden snatching;
9. Section 812.133, relating to carjacking; or
10. Section 812.135, relating to home-invasion robbery,

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate district school board of the adjudication or plea, the requirements of this paragraph, and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the

same school bus, except as provided pursuant to a written disposition order under s. 985.455(2). Upon receipt of such notice, the district school board shall take appropriate action to effectuate the provisions of paragraph (b).

(b) Any offender described in paragraph (a), who is not exempted as provided in paragraph (a), shall not attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the district school board to attend another school within the district in which the offender resides, provided the other school is not attended by the victim or sibling of the victim of the offense; or the offender may be permitted by another district school board to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides.

(c) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending school in another school district, the district school board in the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a district school board to keep the offender separated from the victim shall include, but are not limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(d) The offender, or the parents of the offender if the offender is a juvenile, shall be responsible for arranging and paying for transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district school board.

History.—s. 283, ch. 2002-387; s. 129, ch. 2006-120.

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### **1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—**

(1) This section may be cited as the “Craig Dickinson Act.”

(2) Interscholastic extracurricular student activities are an important complement to the academic curriculum. Participation in a comprehensive extracurricular and academic program contributes to student development of the social and intellectual

skills necessary to become a well-rounded adult. As used in this section, the term “extracurricular” means any school-authorized or education-related activity occurring during or outside the regular instructional school day.

(3)(a) To be eligible to participate in interscholastic extracurricular student activities, a student must:

1. Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previ-

ous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1).

2. Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student's parents, if the student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1003.43(1) or, for students who entered the 9th grade prior to the 1997-1998 school year, if the student's cumulative grade point average falls below 2.0 on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1) that are taken after July 1, 1997. At a minimum, the contract must require that the student attend summer school, or its graded equivalent, between grades 9 and 10 or grades 10 and 11, as necessary.

3. Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1) during his or her junior or senior year.

4. Maintain satisfactory conduct and, if a student is convicted of, or is found to have committed, a felony or a delinquent act which would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the student's participation in interscholastic extracurricular activities is contingent upon established and published district school board policy.

(b) Any student who is exempt from attending a full school day based on rules adopted by the district school board for double session schools or programs, experimental schools, or schools operating under emergency conditions must maintain the grade point average required by this section and pass each class for which he or she is enrolled.

(c) An individual home education student is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to district or interdistrict controlled open enrollment provisions, or may develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school, provided the following conditions are met:

1. The home education student must meet the requirements of the home education program pursuant to s. 1002.41.

2. During the period of participation at a school, the home education student must demonstrate educational progress as required in paragraph (b) in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal which may include: review of the student's work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a community college, university, or trade school; standardized test scores above the 35th percentile; or any other

method designated in s. 1002.41.

3. The home education student must meet the same residency requirements as other students in the school at which he or she participates.

4. The home education student must meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.

5. The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A home education student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to subparagraph 2. to become eligible to participate as a home education student.

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment provisions, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A charter school student must be able to

participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

(4) The student standards for participation in interscholastic extracurricular activities must be applied beginning with the student's first semester of the 9th grade. Each student must meet such other requirements for participation as may be established by the district school board; however, a district school board may not establish requirements for participation in interscholastic extracurricular activities which make participation in such activities less accessible to home education students than to other students. Except as set forth in paragraph (3) (c), evaluation processes or requirements that are placed on home education student participants may not go beyond those that apply under s. 1002.41 to home education students generally.

(5) Any organization or entity that regulates or governs interscholastic extracurricular activities of public schools:

(a) Shall permit home education associations to join as member schools.

(b) Shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

(6) Public schools are prohibited from membership in any organization or entity which regulates or governs interscholastic extracurricular activities and discriminates against eligible students in public, private, or home education.

(7) Any insurance provided by district school boards for participants in extracurricular activities shall cover the participating home education student. If there is an additional premium for such coverage, the participating home education student shall pay the premium.

(8)(a) The Florida High School Athletic Association (FHSAA), in cooperation with the district school boards of Bradford County, Duval County, and Nassau County, shall facilitate a 2-year pilot program during the 2008-2009 and 2009-2010 academic years in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic

sport at a public high school, a public middle school, or a 6-12 public school that is zoned for the physical address at which the student resides if:

1. The private school in which the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.

2. The private school student meets the guidelines for the conduct of the pilot program established by the FHSAA's board of directors and the participating district school boards. At a minimum, such guidelines shall provide:

a. A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.

b. Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance that apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

(b) The parents of a private school student participating in a public school sport under this subsection are responsible for transporting their child to and from the public school at which the student participates. The private school the student attends, the public school at which the student participates in a sport, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs to the student during such transportation.

(c) For each academic year, a private school student may only participate at the public school in which the student is first registered under subparagraph (a)2.a. or makes himself or herself a candidate for an athletic team by engaging in a practice.

(d) The FHSAA and participating district school boards shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives:

1. A copy of the guidelines established under subparagraph (a)2. for the pilot program no later than August 1, 2008.

2. A report on the progress of the pilot program no later than January 1, 2010. The report shall include the number of students registered under subparagraph (a)2.a., the number of students found eligible to participate in the pilot program, the number of students who transfer to the public schools at which the students participated under the pilot program, implementation issues experienced with the pilot program, and recommendations on how the pilot program may be improved and expanded to include other counties.

(e) This subsection shall stand repealed on June 30, 2010, unless reviewed and reenacted by the Legislature.

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**1006.21 Duties of district school superintendent and district school board regarding transportation.—**

(1) The district school superintendent shall ascertain which students should be transported to school or to school activities, determine the most effective arrangement of transportation routes to accommodate these students; recommend such routing to the district school board; recommend plans and procedures for providing facilities for the economical and safe transportation of students; recommend such rules as may be necessary and see that all rules relating to the transportation of students approved by the district school board, as well as rules of the State Board of Education, are properly carried into effect, as prescribed in this chapter.

(2) After considering recommendations of the district school superintendent, the district school board shall make provision for the transportation of students to the public schools or school activities they are required or expected to attend; authorize transportation routes arranged efficiently and economically; provide the necessary transportation facilities, and, when authorized under rules of the State Board of Education and if more economical to do so, provide limited subsistence in lieu thereof; and adopt the necessary rules to ensure safety, economy, and efficiency in the operation of all buses, as prescribed in this chapter.

(3) District school boards, after considering recommendations of the district school superintendent:

(a) Shall provide transportation for each student in prekindergarten disability programs and in kindergarten through grade 12 membership in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport students whose homes are more than a reasonable walking distance, as defined by rules of the State Board of Education, from the nearest appropriate school.

(b) Shall provide transportation for public elementary school students in membership whose

grade level does not exceed grade 6, and may provide transportation for public school students in membership in grades 7 through 12, if such students are subjected to hazardous walking conditions as provided in s. 1006.23 while en route to or from school.

(c) May provide transportation for public school migrant, exceptional, nursery, and other public school students in membership below kindergarten; kindergarten through grade 12 students in membership in a public school; and adult students in membership in adult career, basic, and high school graduation programs in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available.

(d) May provide transportation for the transportation disadvantaged as defined in s. 427.011 and for other school-age children as provided for in s. 1006.261.

(e) Shall provide necessary transportation to pregnant students or student parents, and the children of those students, when the district school board operates a teenage parent program pursuant to s. 1003.54.

(f) May provide transportation for other persons to events or activities in which the district school board or school has agreed to participate or cosponsor. The district school board shall adopt a policy to address liability for trips pursuant to this paragraph.

(g) May provide transportation for welfare transition program participants as defined in s. 414.0252.

(4) In each case in which transportation of students is impracticable in the opinion of the district school board, the district school board may take steps for making available educational facilities as are authorized by law or rule of the State Board of Education and as, in the opinion of the district school board, are practical.

History.—s. 295, ch. 2002-387; s. 47, ch. 2004-41; s. 102, ch. 2004-357.

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**1006.22 Safety and health of students being transported.—**Maximum regard for safety and adequate protection of health are primary requirements that must be observed by district school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and rules of the State Board of Education in providing transportation pursuant to s. 1006.21:

(1)(a) District school boards shall use school buses, as defined in s. 1006.25, for all regular transportation. Regular transportation or regular use means transportation of students to and from school or school-related activities that are part of a scheduled series or sequence of events to the same location. "Students" means, for the purposes of this

section, students enrolled in the public schools in prekindergarten disability programs and in kindergarten through grade 12. District school boards may regularly use motor vehicles other than school buses only under the following conditions:

1. When the transportation is for physically handicapped or isolated students and the district school board has elected to provide for the transportation of the student through written or oral contracts or agreements.

2. When the transportation is a part of a comprehensive contract for a specialized educational program between a district school board and a service provider who provides instruction, transportation, and other services.

3. When the transportation is provided through

a public transit system.

4. When the transportation is for trips to and from school sites or agricultural education sites or for trips to and from agricultural education-related events or competitions, but is not for customary transportation between a student's residence and such sites.

(b) When the transportation of students is provided, as authorized in this subsection, in a vehicle other than a school bus that is owned, operated, rented, contracted, or leased by a school district or charter school, the following provisions shall apply:

1. The vehicle must be a passenger car or multipurpose passenger vehicle or truck, as defined in 49 C.F.R. part 571, designed to transport fewer than 10 students. Students must be transported in designated seating positions and must use the occupant crash protection system provided by the manufacturer unless the student's physical condition prohibits such use.

2. An authorized vehicle may not be driven by a student on a public right-of-way. An authorized vehicle may be driven by a student on school or private property as part of the student's educational curriculum if no other student is in the vehicle.

3. The driver of an authorized vehicle transporting students must maintain a valid driver's license and must comply with the requirements of the school district's locally adopted safe driver plan, which includes review of driving records for disqualifying violations.

4. The district school board or charter school must adopt a policy that addresses procedures and liability for trips under this paragraph, including a provision that school buses are to be used whenever practical and specifying consequences for violation of the policy.

(2) Except as provided in subsection (1), district school boards may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis only in the following circumstances:

(a) When a student is ill or injured and must be taken home or to a medical treatment facility under nonemergency circumstances; and

1. The school has been unable to contact the student's parent or the parent or responsible adult designated by the parent is not available to provide the transportation;

2. Proper adult supervision of the student is available at the location to which the student is being transported;

3. The transportation is approved by the school principal, or a school administrator designated by the principal to grant or deny such approval, or in the absence of the principal and designee, by the highest ranking school administrator or teacher available under the circumstances; and

4. If the school has been unable to contact the parent prior to the transportation, the school

shall continue to seek to contact the parent until the school is able to notify the parent of the transportation and the pertinent circumstances.

(b) When the transportation is in connection with a school function or event regarding which the district school board or school has undertaken to participate or to sponsor or provide the participation of students; and

1. The function or event is a single event that is not part of a scheduled series or sequence of events to the same location, such as, but not limited to, a field trip, a recreational outing, an interscholastic competition or cooperative event, an event connected with an extracurricular activity offered by the school, or an event connected to an educational program, such as, but not limited to, a job interview as part of a cooperative education program;

2. Transportation is not available, as a practical matter, using a school bus or school district passenger car; and

3. Each student's parent is notified, in writing, regarding the transportation arrangement and gives written consent before a student is transported in a privately owned motor vehicle.

(c) When a district school board requires employees such as school social workers and attendance officers to use their own motor vehicles to perform duties of employment, and such duties include the occasional transportation of students.

(3) When approval is granted for the transportation of students in a privately owned vehicle, the provisions of s. 1006.24 regarding liability for tort claims are applicable. District school board employees who provide approved transportation in privately owned vehicles are acting within the scope of their employment. Parents or other responsible adults who provide approved transportation in privately owned vehicles have the same exposure to, and protections from, risks of personal liability as do district school board employees acting within the scope of their employment.

(4) Each district school board may establish policies that restrict the use of privately owned motor vehicles to circumstances that are more limited than are described in this section or that prohibit such use. Each district school board may establish written policies that provide for more extensive requirements for approval, parental notification and consent procedures, insurance coverage, driver qualifications, or a combination of these.

(5) When transportation is authorized in privately owned vehicles, students may be transported only in designated seating positions and must use the occupant crash protection system provided by the vehicle manufacturer.

(6) District school boards may contract with a common carrier to transport students to and from in-season and postseason athletic contests and to and from a school function or event in which the district school board or a school has undertaken to partici-

pate or to provide for or sponsor the participation of students.

(7) Transportation for adult students may be provided by any appropriate means as authorized by the district school board when the transportation is accepted as a responsibility by the district school board as provided in s. 1006.21.

(8) Notwithstanding any other provision of this section, in an emergency situation that constitutes an imminent threat to student health or safety, school personnel may take whatever action is necessary under the circumstances to protect student health and safety.

(9) Except as provided in s. 1006.261, transportation is not the responsibility of the district school board in connection with any event or activity that is not an event or activity offered by the district school board or an event or an activity in which the district school board or school has agreed to participate, cosponsor, or require the participation of students, and the district school board has no liability for transportation arranged and provided by parents or other parties to such events or activities.

(10) Each district school board shall designate and adopt a specific plan for adequate examination, maintenance, and repair of transportation equipment. Examination of the mechanical and safety condition of each school bus must be made as required pursuant to rule of the State Board of Education. The State Board of Education shall base the rule on student safety considerations.

(11) The district school superintendent shall notify the district school board of any school bus that does not meet all requirements of law and rules of the State Board of Education, and the district school board shall, if the school bus is in an unsafe condition, withdraw it from use as a school bus until the bus meets the requirements. The department may inspect or have inspected any school bus to determine whether the bus meets requirements of law and rules of the State Board of Education. The department may, after due notice to a district school board that any school bus does not meet certain requirements of law and rules of the State Board of Education, rule that the bus must be withdrawn from use as a school bus, this ruling to be effective immediately or upon a date specified in the ruling, whereupon the district school board shall withdraw the school bus from use as a school bus until it meets requirements of law and rules of the State Board of Education and until the department has officially revoked the pertinent ruling. Notwithstanding

any other provisions of this chapter, general purpose urban transit systems are declared qualified to transport students to and from school.

(12)(a) The routing and scheduling of school buses must be planned to eliminate the necessity for students to stand while a school bus is in motion. When circumstances of an emergency nature, as defined by written district school board policy, temporarily require transporting students on school buses in excess of the rated seating capacity, the buses must proceed at a reduced rate of speed to maximize safety of the students, taking into account existing traffic conditions. Each district school board is responsible for prompt relief of the emergency condition by providing additional equipment, bus rerouting, bus rescheduling, or other appropriate remedial action, and must maintain written district school board policies to address such situations.

(b) Each district school board, after considering recommendations from the district school superintendent, shall designate, by map or otherwise, or shall provide by district school board rule for the designation of, nontransportation zones that are composed of all areas in the school district from which it is unnecessary or impracticable to furnish transportation. Nontransportation zones must be designated annually before the opening of school and the designation of bus routes for the succeeding school year. Each district school board, after considering recommendations from the district school superintendent, shall specifically designate, or shall provide by district school board rule for the designation of, specific routes to be traveled regularly by school buses, and each route must meet the requirements prescribed by rules of the State Board of Education.

(c) Each district school board shall establish school bus stops, or provide by district school board rule for the establishment of school bus stops, as necessary at the most reasonably safe locations available. Where unusual traffic hazards exist at school bus stops on roads maintained by the state outside of municipalities, the Department of Transportation, in concurrence and cooperation with and upon request of the district school board, shall place signs at such bus stops warning motorists of the location of the stops.

(13) The State Board of Education may adopt rules to implement this section as are necessary or desirable in the interest of student health and safety.

History.—s. 296, ch. 2002-387; s. 14, ch. 2006-301.

**1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—**

(1) DISTRICT SCHOOL BOARD.—The district school board has the duty to provide adequate instructional materials for all students in accordance with the requirements of this part. The term “ad-

equate instructional materials” means a sufficient number of textbooks or sets of materials serving as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include

a textbook as a major tool of instruction. The district school board has the following specific duties:

(a) Courses of study; adoption.—Adopt courses of study for use in the schools of the district.

(b) Textbooks.—Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials furnished by the state and furnish such other instructional materials as may be needed. The district school board shall assure that instructional materials used in the district are consistent with the district goals and objectives and the curriculum frameworks adopted by rule of the State Board of Education, as well as with the state and district performance standards provided for in s. 1001.03(1).

(c) Other instructional materials.—Provide such other teaching accessories and aids as are needed for the school district's educational program.

(d) School library media services; establishment and maintenance.—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system.

(2) DISTRICT SCHOOL SUPERINTENDENT.—

(a) The district school superintendent has the duty to recommend such plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional aids as will result in general improvement of the district school system, as prescribed in this part, in accordance with adopted district school board rules prescribing the duties and responsibilities of the district school superintendent regarding the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials, and providing for an evaluation of any instructional materials to be requisitioned that have not been used previously in the district's schools. The district school superintendent must keep adequate records and accounts for all financial transactions for funds collected pursuant to subsection (3), as a component of the educational service delivery scope in a school district best financial management practices review under s. 1008.35.

(b) Each district school superintendent shall notify the department by April 1 of each year the state-adopted instructional materials that will be requisitioned for use in his or her school district. The notification shall include a district school board plan

for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

(3) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of instructional materials at the school:

(a) Proper use of instructional materials.—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) Money collected for lost or damaged books; enforcement.—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. If instructional materials lost, destroyed, or damaged have been in school use for more than 1 year, a sum ranging between 50 and 75 percent of the purchase price of the book shall be collected, determined by the physical condition of the book. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) Sale of instructional materials.—The school principal, upon request of the parent of a student in the school, shall sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) Disposition of funds.—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) Accounting for textbooks.—Principals shall see that all books are fully and properly accounted for as prescribed by adopted rules of the district school board.

History.—s. 303, ch. 2002-387.

**1006.38 Duties, responsibilities, and requirements of instructional materials publishers and manufacturers.**—Publishers and manufacturers of instructional materials, or their representatives, shall:

(1) Comply with all provisions of this part.

(2) Deliver fully developed specimen copies of all instructional materials upon which bids are based to each member of a state instructional materials committee. At the conclusion of the review process, manufacturers submitting samples of instructional

materials are entitled to the return thereof, at the expense of the manufacturers; or, in the alternative, the manufacturers are entitled to reimbursement by the individual committee members for the retail value of the samples.

(3) Submit, at a time designated in s. 1006.33, the following information:

(a) Detailed specifications of the physical characteristics of the instructional materials. The publisher or manufacturer shall comply with these specifications if the instructional materials are adopted and purchased in completed form.

(b) Written proof that the publisher has provided written correlations to appropriate curricular objectives included within applicable performance standards provided for in s. 1001.03(1).

(4) Make available for purchase by any district school board any diagnostic, criterion-referenced, or other tests that they may develop.

(5) Furnish the instructional materials offered by them at a price in the state which, including all costs of transportation to their depositories, shall not exceed the lowest price at which they offer such instructional materials for adoption or sale to any state or school district in the United States.

(6) Reduce automatically the price of the instructional materials to any district school board to the extent that reductions are made elsewhere in the United States.

(7) Provide any instructional materials free of charge in the state to the same extent as they are provided free of charge to any state or school district in the United States.

(8) Guarantee that all copies of any instructional materials sold in this state will be at least equal in quality to the copies of such instructional materials that are sold elsewhere in the United States and will be kept revised, free from all errors, and up-to-date as may be required by the department.

(9) Agree that any supplementary material developed at the district or state level does not violate the author's or publisher's copyright, provided such material is developed in accordance with the doctrine of fair use.

(10) Not in any way, directly or indirectly, become associated or connected with any combina-

tion in restraint of trade in instructional materials, nor enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in the state.

(11) Maintain or contract with a depository in the state.

(12) For the core subject areas specified in s. 1006.40(2), maintain in the depository for the first 2 years of the contract an inventory of instructional materials sufficient to receive and fill orders.

(13) For the core subject areas specified in s. 1006.40(2), ensure the availability of an inventory sufficient to receive and fill orders for instructional materials for growth, including the opening of a new school, and replacement during the 3rd and subsequent years of the original contract period.

(14) For all other subject areas, maintain in the depository an inventory of instructional materials sufficient to receive and fill orders.

(15) Accurately and fully disclose only the names of those persons who actually authored the instructional materials. In addition to the penalties provided in subsection (17), the commissioner may remove from the list of state-adopted instructional materials those instructional materials whose publisher or manufacturer misleads the purchaser by falsely representing genuine authorship.

(16) Grant, without prior written request, for any copyright held by the publisher or its agencies automatic permission to the department or its agencies for the reproduction of textbooks and supplementary materials in braille or large print or in the form of sound recordings, for use by visually impaired students or other students with disabilities that would benefit from use of the materials.

(17) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, be liable to the department in the amount of 3 times the total sum which the publisher or manufacturer was paid in excess of the price required under subsections (5) and (6) and in the amount of 3 times the total value of the instructional materials and services which the district school board is entitled to receive free of charge under subsection (7).

History.—s. 313, ch. 2002-387.

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#### **1006.43 Expenses; budget request.—**

(1) The commissioner shall include in the department's annual legislative budget a request for funds in an amount sufficient to provide the necessary expense for:

(a) The instructional materials committees.

(b) Instructional materials for use by partially sighted students.

(c) Other specific and necessary state expenses with regard to the instructional materials program.

(2) The department may arrange for distribution adopted textbooks which are prepared in various

media for the use of partially sighted children enrolled in the Florida schools.

History.—s. 318, ch. 2002-387.



# Florida Statutes Pertaining to Special Programs

## Chapter 1007

### Articulation and Access

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**1007.02 Access to postsecondary education and meaningful careers for students with disabilities; popular name; definition.—**

(1) This section shall be known by the popular name the “Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act.”

(2) For the purposes of this act, the term “student with a disability” means any student who

is documented as having an intellectual disability; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; an emotional or behavioral disability; an orthopedic or other health impairment; an autism spectrum disorder; a traumatic brain injury; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

History.—s. 1, ch. 2003-8; s. 7, ch. 2008-204.

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**1007.21 Readiness for postsecondary education and the workplace.—**

(1) It is the intent of the Legislature that students and parents develop academic achievement and career goals for the student’s post-high-school experience during the middle grades. Parents and students are to become partners with school personnel in career exploration and educational decision-making. Clear academic course expectations that emphasize rigorous and relevant coursework shall be made available to all students by allowing both student and parent choice.

(2)(a) Students entering the 9th grade and their parents shall have developed during the middle grades a 4- to 5-year academic and career plan based on postsecondary and career goals. Alternate career and academic destinations should be considered with bridges between destinations to enable students to shift academic and career priorities if they choose to change goals. The destinations shall accommodate the needs of students served in exceptional education programs to the extent appropriate for individual students. Exceptional education students may continue to follow the courses outlined in the district school board student progression plan. Students and their parents shall choose among destinations, which must include:

1. Four-year college or university, community college plus university, or military academy degree.
2. Two-year postsecondary degree.
3. Postsecondary career certificate
4. Immediate employment or entry-level military.
5. A combination of the above.

(b) The student progression model toward a chosen destination shall include:

1. A “path” of core courses leading to each of the destinations provided in paragraph (a).
2. A recommended group of electives which shall help define each path.
3. Provisions for a teacher, school administrator, other school staff member, or community volunteer to be assigned to a student as an “academic

advocate” if parental involvement is lacking.

(c) The common placement test authorized in ss. 1001.03(10) and 1008.30 or a similar test may be administered to high school students who have chosen one of the four destinations. The results of the placement test shall be used to target additional instructional needs in reading, writing, and mathematics prior to graduation.

(d) Ample opportunity shall be provided for students to move from one destination to another, and some latitude shall exist within each destination, to meet the individual needs of students.

(e) Destinations specified in subparagraphs (a)1., 2., and 3. shall support the goals of the Tech Prep program. Students participating in Tech Prep shall be enrolled in articulated, sequential programs of study that include a technical component and at least a minimum of a postsecondary certificate or 2-year degree.

(f) In order for these destinations to be attainable, the business community shall be encouraged to support real-world internships and apprenticeships.

(g) All students shall be encouraged to take part in service learning opportunities.

(h) High school equivalency diploma preparation programs shall not be a choice for high school students leading to any of the four destinations provided in paragraph (a) since the appropriate coursework, counseling component, and career preparation cannot be ensured.

(i) Schools shall ensure that students and parents are made aware of the destinations available and provide the necessary coursework to assist the student in reaching the chosen destination. Students and parents shall be made aware of the student’s progress toward the chosen destination.

(j) The Department of Education shall offer technical assistance to school districts to ensure that the destinations offered also meet the academic standards adopted by the state.

(3)(a) Access to Level I courses for graduation credit and for pursuit of a declared destination shall

be limited to only those students for whom assessment indicates a more rigorous course of study would be inappropriate.

(b) The school principal shall

1. Designate a member of the existing instructional or administrative staff to serve as a specialist to help coordinate the use of student achievement strategies to help students succeed in their coursework. The specialist shall also assist teachers in integrating the academic and career curricula, utilizing

technology, providing feedback regarding student achievement, and implementing the Blueprint for Career Preparation and Tech Prep programs.

2. Institute strategies to eliminate reading, writing, and mathematics deficiencies of secondary students.

History.—s. 346, ch. 2002-387; s. 48, ch. 2004-41; s. 104, ch. 2004-357; s. 37, ch. 2006-74; s. 16, ch. 2008-235.

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**1007.2615 American Sign Language; findings; foreign-language credits authorized; teacher licensing.—**

(1) LEGISLATIVE FINDINGS; PURPOSE.—

(a) The Legislature finds that

1. American Sign Language (ASL) is a fully developed visual-gestural language with distinct grammar, syntax, and symbols and is one of hundreds of signed languages of the world.

2. ASL is recognized as the language of the American deaf community and is the fourth most commonly used language in the United States and Canada.

3. The American deaf community is a group of citizens who are members of a unique culture who share ASL as their common language.

4. Thirty-three state legislatures have adopted legislation recognizing ASL as a language that should be taught in schools.

(b) It is the intent of the Legislature to recognize ASL as the language of the American deaf community, to authorize public and independent schools to offer ASL as a course of study, and to accept secondary-school ASL credits as foreign-language credits.

(2) AMERICAN SIGN LANGUAGE; FOREIGN-LANGUAGE CREDIT.—

(a) American Sign Language is a visual-gestural system of communication used by many in the deaf community living in the United States and Canada. It is a complete and complex language that has its own syntax, rhetoric, and grammar and that is used to convey information and meaning through signs made with the hands, arms, facial gestures, and other body movements.

(b) Any public or independent school may offer American Sign Language for foreign-language credit. Students taking American Sign Language for foreign-language credit must be advised by the school board prior to enrollment in such course that state universities and postsecondary institutions outside of Florida may not accept such credits as satisfying foreign-language requirements.

(3) DUTIES OF COMMISSIONER OF EDUCATION AND STATE BOARD OF EDUCATION; LICENSING OF AMERICAN SIGN LANGUAGE TEACHERS; PLAN FOR POSTSECONDARY EDUCATION PROVIDERS.—

(a) The Commissioner of Education shall appoint a seven-member task force that includes representatives from two state universities and one private college or university located within this state which currently offer a 4-year deaf education or sign language interpretation program as a part of their respective curricula, two representatives from the Florida American Sign Language Teachers' Association (FASLTA), and two representatives from community colleges located within this state which have established Interpreter Training Programs (ITPs). This task force shall develop and submit to the Commissioner of Education a report that contains the most up-to-date information about American Sign Language (ASL) and guidelines for developing and maintaining ASL courses as a part of the curriculum. This information must be made available to any administrator of a public or an independent school upon request of the administrator.

(b) By January 1, 2005, the State Board of Education shall adopt rules establishing licensing/certification standards to be applied to teachers who teach ASL as part of a school curriculum. In developing the rules, the state board shall consult with the task force established under paragraph (a).

(c) An ASL teacher must be certified by the Department of Education by July 1, 2009.

(d) The Commissioner of Education shall work with providers of postsecondary education, except for state universities, to develop and implement a plan to ensure that these institutions in this state will accept secondary school credits in ASL as credits in a foreign language and to encourage postsecondary institutions to offer ASL courses to students as a fulfillment of the requirement for studying a foreign language.

History.—s. 1, ch. 2003-119; s. 38, ch. 2006-74; s. 116, ch. 2007-217.

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**1007.263 Community colleges; admissions of students.—**Each community college board of trustees is authorized to adopt rules governing admissions of students subject to this section and rules of the State Board of Education. These rules shall

include the following:

(1) Admissions counseling shall be provided to all students entering college or career credit programs. Counseling shall utilize tests to measure achievement of college-level communication and

computation competencies by all students entering college credit programs or tests to measure achievement of basic skills for career programs as prescribed in s. 1004.91.

(2) Admission to associate degree programs is subject to minimum standards adopted by the State Board of Education and shall require:

(a) A standard high school diploma, a high school equivalency diploma as prescribed in s. 1003.435, previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 1002.41. Students who are enrolled in a dual enrollment or early admission program pursuant to ss. 1007.27 and 1007.271 and secondary students enrolled in college-level instruction creditable toward the associate degree, but not toward the high school diploma, shall be exempt from this requirement.

(b) A demonstrated level of achievement of college-level communication and computation skills.

(c) Any other requirements established by the board of trustees.

(3) Admission to other programs within the community college shall include education requirements as established by the board of trustees.

(4) A student who has been awarded a special diploma as defined in s. 1003.438 or a certificate of completion as defined in s. 1003.43(10) is eligible to enroll in certificate career education programs.

(5) A student with a documented disability may be eligible for reasonable substitutions, as prescribed in ss. 1007.264 and 1007.265.

Each board of trustees shall establish policies that notify students about, and place students into, adult basic education, adult secondary education, or other instructional programs that provide students with alternatives to traditional college-preparatory instruction, including private provider instruction. A student is prohibited from enrolling in additional college-level courses until the student scores above the cut-score on all sections of the common placement test.

History.—s. 354, ch. 2002-387; s. 3, ch. 2003-8.

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**1007.264 Persons with disabilities; admission to postsecondary educational institutions; substitute requirements; rules.—**

(1) Any student with a disability, as defined in s. 1007.02(2), except those students who have been documented as having intellectual disabilities, shall be eligible for reasonable substitution for any requirement for admission into a public postsecondary educational institution where documentation can be provided that the person's failure to meet the admission requirement is related to the disability.

(2) The State Board of Education, in consulta-

tion with the Board of Governors, shall adopt rules to implement this section for community colleges and shall develop substitute admission requirements where appropriate.

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt rules to implement this section for state universities and shall develop substitute admission requirements where appropriate.

History.—s. 355, ch. 2002-387; s. 4, ch. 2003-8; s. 118, ch. 2007-217; s. 8, ch. 2008-204.

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**1007.265 Persons with disabilities; graduation, study program admission, and upper-division entry; substitute requirements; rules.—**

(1) Any student with a disability, as defined in s. 1007.02(2), in a public postsecondary educational institution, except those students who have been documented as having intellectual disabilities, shall be eligible for reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division where documentation can be provided that the person's failure to meet the requirement is related to the disability and where failure to meet the graduation requirement or program admission requirement does not constitute a fundamental

alteration in the nature of the program.

(2) The State Board of Education, in consultation with the Board of Governors, shall adopt rules to implement this section for community colleges and shall develop substitute requirements where appropriate.

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt rules to implement this section for state universities and shall develop substitute requirements where appropriate.

History.—s. 5, ch. 2003-8; s. 119, ch. 2007-217; s. 9, ch. 2008-204.

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**1007.27 Articulated acceleration mechanisms.—**

(1) It is the intent of the Legislature that a variety of articulated acceleration mechanisms be available for secondary and postsecondary students attending public educational institutions. It is intended that articulated acceleration serve to shorten the time necessary for a student to complete

the requirements associated with the conference of a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject. Articulated acceleration mechanisms shall include, but not be limited to, dual enrollment as provided for in s. 1007.271,

early admission, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program. Credit earned through the Florida Virtual School shall provide additional opportunities for early graduation and acceleration.

(2) The Department of Education shall identify the minimum scores, maximum credit, and course or courses for which credit is to be awarded for each College Level Examination Program (CLEP) general examination, CLEP subject examination, College Board Advanced Placement Program examination, and International Baccalaureate examination. In addition, the department shall identify such courses in the general education core curriculum of each state university and community college.

(3) Each community college and state university must award credit for specific courses for which competency has been demonstrated by successful passage of one of the examinations in subsection (2) unless the award of credit duplicates credit already awarded. Community colleges and state universities may not exempt students from courses without the award of credit if competencies have been so demonstrated.

(4) It is the intent of the Legislature to provide articulated acceleration mechanisms for students who are in home education programs, as defined in s. 1002.01, consistent with the educational opportunities available to public and private secondary school students. Home education students may participate in dual enrollment, career dual enrollment, early admission, and credit by examination. Credit earned by home education students through dual enrollment shall apply toward the completion of a home education program that meets the requirements of s. 1002.41.

(5) Early admission shall be a form of dual enrollment through which eligible secondary students enroll in a postsecondary institution on a full-time basis in courses that are creditable toward the high school diploma and the associate or baccalaureate degree. Students enrolled pursuant to this subsection shall be exempt from the payment of registration, tuition, and laboratory fees.

(6) Advanced placement shall be the enrollment of an eligible secondary student in a course offered through the Advanced Placement Program administered by the College Board. Postsecondary credit for an advanced placement course shall be limited to students who score a minimum of 3, on a 5-point scale, on the corresponding Advanced Placement Examination. The specific courses for which students receive such credit shall be identified in the statewide articulation agreement required by s. 1007.23(1). Students of Florida public secondary schools enrolled pursuant to this subsection shall be exempt from the payment of any fees for administration of the examination regardless of whether or not the student achieves a passing score

on the examination.

(7) Credit by examination shall be the program through which secondary and postsecondary students generate postsecondary credit based on the receipt of a specified minimum score on nationally standardized general or subject-area examinations. For the purpose of statewide application, such examinations and the corresponding minimum scores required for an award of credit shall be delineated by the State Board of Education and the Board of Governors in the statewide articulation agreement required by s. 1007.23(1). The maximum credit generated by a student pursuant to this subsection shall be mitigated by any related postsecondary credit earned by the student prior to the administration of the examination. This subsection shall not preclude community colleges and universities from awarding credit by examination based on student performance on examinations developed within and recognized by the individual postsecondary institutions.

(8) The International Baccalaureate Program shall be the curriculum in which eligible secondary students are enrolled in a program of studies offered through the International Baccalaureate Program administered by the International Baccalaureate Office. The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the cutoff scores and International Baccalaureate Examinations which will be used to grant postsecondary credit at community colleges and universities. Any changes to the articulation agreement, which have the effect of raising the required cutoff score or of changing the International Baccalaureate Examinations which will be used to grant postsecondary credit, shall only apply to students taking International Baccalaureate Examinations after such changes are adopted by the State Board of Education and the Board of Governors. Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student may receive such credit shall be specified in the statewide articulation agreement required by s. 1007.23(1). Students enrolled pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations regardless of whether or not the student achieves a passing score on the examination.

(9) The Advanced International Certificate of Education Program and the International General Certificate of Secondary Education (pre-AICE) Program shall be the curricula in which eligible secondary students are enrolled in programs of study offered through the Advanced International Certificate of Education Program or the International General Certificate of Secondary Education (pre-AICE) Program administered by the University of Cambridge Local Examinations Syndicate.

The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the cutoff scores and Advanced International Certificate of Education examinations which will be used to grant postsecondary credit at community colleges and universities. Any changes to the cutoff scores, which changes have the effect of raising the required cutoff score or of changing the Advanced International Certification of Education examinations which will be used to grant postsecondary credit, shall apply to students taking Advanced International Certificate of Education examinations after such changes are adopted by the State Board of Education and the Board of Governors. Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student may receive such credit shall be determined

by the community college or university that accepts the student for admission. Students enrolled in either program of study pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations regardless of whether the student achieves a passing score on the examination.

(10) Any student who earns 9 or more credits from one or more of the acceleration mechanisms provided for in this section is exempt from any requirement of a public postsecondary educational institution mandating enrollment during a summer term.

History.—s. 356, ch. 2002-387; s. 6, ch. 2003-8; s. 167, ch. 2004-5; s. 108, ch. 2004-357; s. 5, ch. 2005-196; s. 120, ch. 2007-217.



# Florida Statutes Pertaining to Special Programs

## Chapter 1008

### Assessment and Accountability

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#### **1008.22 Student assessment program for public schools.—**

(1) **PURPOSE.**—The primary purposes of the student assessment program are to provide information needed to improve the public schools by enhancing the learning gains of all students and to inform parents of the educational progress of their public school children. The program must be designed to:

- (a) Assess the annual learning gains of each student toward achieving the Sunshine State Standards appropriate for the student's grade level.
- (b) Provide data for making decisions regarding school accountability and recognition.
- (c) Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school with a standard or special high school diploma.
- (d) Assess how well educational goals and curricular standards are met at the school, district, and state levels.
- (e) Provide information to aid in the evaluation and development of educational programs and policies.
- (f) Provide information on the performance of Florida students compared with that of other students across the United States.

(2) **NATIONAL EDUCATION COMPARISONS.**—It is Florida's intent to participate in the measurement of national educational goals. The Commissioner of Education shall direct Florida school districts to participate in the administration of the National Assessment of Educational Progress, or a similar national assessment program, both for the national sample and for any state-by-state comparison programs which may be initiated. The assessments must be conducted using the data collection procedures, the student surveys, the educator surveys, and other instruments included in the National Assessment of Educational Progress or similar program being administered in Florida. The results of these assessments shall be included in the annual report of the Commissioner of Education specified in this section. The administration of the National Assessment of Educational Progress or similar program shall be in addition to and separate from the administration of the statewide assessment program.

(3) **STATEWIDE ASSESSMENT PROGRAM.**—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the

operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit proposed Next Generation Sunshine State Standards to the State Board of Education for adoption and periodic review and revision under s. 1003.41.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 1008.385 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program to measure a student's content knowledge and skills in reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10. Comprehensive assessments of writing and science shall be administered at least once at the elementary, middle, and high school levels. End-of-course assessments for a subject may be administered in addition to the comprehensive assessments required for that subject under this paragraph. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by comprehensive and end-of-course assessments must be aligned to the core curricular content established in the Sunshine State Standards. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Ad-

vanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course or industry-approved examinations to earn national industry certifications as defined in s. 1003.492, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards. The testing program must be designed as follows:

1. The tests shall measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

2. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

3. Beginning with the 2008-2009 school year, the commissioner shall discontinue administration of the selected-response test items on the comprehensive assessments of writing. Beginning with the 2012-2013 school year, the comprehensive assessments of writing shall be composed of a combination of selected-response test items, short-response performance tasks, and extended-response performance tasks, which shall measure a student's content knowledge of writing, including, but not limited to, paragraph and sentence structure, sentence construction, grammar and usage, punctuation, capitalization, spelling, parts of speech, verb tense, irregular verbs, subject-verb agreement, and noun-pronoun agreement.

4. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described

in this paragraph or attain concordant scores as described in subsection (10) in reading, writing, and mathematics to qualify for a standard high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall apply only to students taking the grade 10 FCAT for the first time after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT may have the FCAT requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels

in reading, writing, and mathematics. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

9. District school boards must provide opportunities for students to demonstrate an acceptable level of performance on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

10. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Sunshine State Standards.

11. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Sunshine State Standards for students with disabilities under s. 1003.438.

12. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results must be made available no later than the final day of the regular school year for students.

b. Beginning with the 2010-2011 school year, a comprehensive statewide assessment of writing is not administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject is not administered earlier than the week of April 15.

c. A statewide standardized end-of-course assessment is administered within the last 2 weeks of the course.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and

assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

(d) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, score, or report the results of, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(e) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement by grade level and overall student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(f) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

(g) Study the cost and student achievement impact of secondary end-of-course assessments, including web-based and performance formats, and report to the Legislature prior to implementation.

(4) STATEWIDE ASSESSMENT PREPARATION; PROHIBITED ACTIVITIES.—Beginning with the 2008-2009 school year, a district school board shall prohibit each public school from suspending a regular program of curricula for purposes of administering practice tests or engaging in other test-preparation activities for a statewide assessment. However, a district school board may authorize a public school to engage in the following test-preparation activities for a statewide assessment:

(a) Distributing to students the sample test books and answer keys published by the Department of Education.

(b) Providing individualized instruction in test-taking strategies, without suspending the school's regular program of curricula, for a student who scores at Level 1 or Level 2 on a prior administration of the statewide assessment.

(c) Providing individualized instruction in the content knowledge and skills assessed, without suspending the school's regular program of curricula, for a student who scores at Level 1 or Level 2 on a prior administration of the statewide assessment or a student who, through a diagnostic assessment administered by the school district, is identified as having a deficiency in the content knowledge and skills assessed.

(d) Incorporating test-taking exercises and strategies into curricula for intensive reading and mathematics intervention courses.

(e) Administering a practice test or engaging in other test-preparation activities for the statewide assessment which are determined necessary to

familiarize students with the organization of the assessment, the format of the test items, and the test directions, or which are otherwise necessary for the valid and reliable administration of the assessment, as set forth in rules adopted by the State Board of Education with specific reference to this paragraph.

(5) DISTRICT TESTING PROGRAMS.—Each district school board shall periodically assess student performance and achievement within each school of the district. The assessment programs must be based on the core curricular content established in the Next Generation Sunshine State Standards and any local goals and objectives that are compatible with the state plan for education and that supplement the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. All school districts must participate in the statewide assessment program designed to measure annual student learning and school performance. All district school boards shall report assessment results as required by the state management information system.

(6) SCHOOL TESTING PROGRAMS.—Each public school shall participate in the statewide assessment program in accordance with the testing and reporting schedules published by the Commissioner of Education under subparagraph (3)(c)12. unless specifically exempted by state board rule based on serving a specialized population for which standardized testing is not appropriate. Student performance data shall be analyzed and reported to parents, the community, and the state. Student performance data shall be used in developing objectives of the school improvement plan, evaluation of instructional personnel, evaluation of administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance-based budgeting, and promotion and assignment of students into educational programs. The analysis of student performance data also must identify strengths and needs in the educational program and trends over time. The analysis must be used in conjunction with the budgetary planning processes developed pursuant to s. 1008.385 and the development of the programs of remediation.

(7) REQUIRED ANALYSES.—The commissioner shall provide, at a minimum, for the following analyses of data produced by the student achievement testing program:

(a) The statistical system for the annual assessments shall use measures of student learning, such as the FCAT, to determine teacher, school, and school district statistical distributions, which shall be determined using available data from the FCAT, and other data collection as deemed appropriate by the Department of Education, to measure the differences in student prior year achievement compared to the current year achievement for the purposes of accountability and recognition.

(b) The statistical system shall provide the best estimates of teacher, school, and school district effects on student progress. The approach used by the department shall be approved by the commissioner before implementation.

(c) The annual testing program shall be administered to provide for valid statewide comparisons of learning gains to be made for purposes of accountability and recognition. District school boards shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.

(8) LOCAL ASSESSMENTS.—Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the state student achievement testing program is the responsibility of the school districts.

(9) APPLICABILITY OF TESTING STANDARDS.—

(a) If the Commissioner of Education revises a statewide assessment and the revisions require the State Board of Education to modify the assessment's proficiency levels or modify the passing scores required for a standard high school diploma, until the state board adopts the modifications by rule, the commissioner shall use calculations for scoring the assessment which adjust student scores on the revised assessment for statistical equivalence to student scores on the former assessment.

(b) A student must attain the passing scores on the statewide assessment required for a standard high school diploma which are in effect at the time the student enters grade 9 if the student's enrollment is continuous.

(c) If the commissioner revises a statewide assessment and the revisions require the State Board of Education to modify the passing scores required for a standard high school diploma, the commissioner may, with approval of the state board, discontinue administration of the former assessment upon the graduation, based on normal student progression, of students participating in the final regular administration of the former assessment. The state board shall adopt by rule passing scores for the revised assessment which are statistically equivalent to passing scores on the discontinued assessment for a student required under paragraph (b) to attain passing scores on the discontinued assessment.

(10) CONCORDANT SCORES FOR THE FCAT.—

(a) The State Board of Education shall analyze the content and concordant data sets for widely used high school achievement tests, including, but not limited to, the PSAT, PLAN, SAT, ACT, and College Placement Test, to assess if concordant scores for FCAT scores can be determined for high school graduation, college placement, and scholarship awards. In cases where content alignment and concordant scores can be determined, the Commissioner of Education shall adopt those scores as meeting

the graduation requirement in lieu of achieving the FCAT passing score and may adopt those scores as being sufficient to achieve additional purposes as determined by rule. Each time that test content or scoring procedures change for the FCAT or for a high school achievement test for which a concordant score is determined, new concordant scores must be determined.

(b) In order to use a concordant subject area score pursuant to this subsection to satisfy the assessment requirement for a standard high school diploma as provided in s. 1003.429(6)(a), s. 1003.43(5)(a), or s. 1003.428, a student must take each subject area of the grade 10 FCAT a total of three times without earning a passing score. The requirements of this paragraph shall not apply to a new student who enters the Florida public school system in grade 12, who may either achieve a passing score on the FCAT or use an approved subject area concordant score to fulfill the graduation requirement.

(c) The State Board of Education may define by rule the allowable uses, other than to satisfy the high school graduation requirement, for concordant scores as described in this subsection. Such uses may include, but need not be limited to, achieving appropriate standardized test scores required for the

awarding of Florida Bright Futures Scholarships and college placement.

(11) REPORTS.—The Department of Education shall annually provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the following:

(a) Longitudinal performance of students in mathematics and reading.

(b) Longitudinal performance of students by grade level in mathematics and reading.

(c) Longitudinal performance regarding efforts to close the achievement gap.

(d) Other student performance data based on national norm-referenced and criterion-referenced tests, when available, and numbers of students who after 8th grade enroll in adult education rather than other secondary education.

(12) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

History.—s. 368, ch. 2002-387; s. 7, ch. 2003-8; s. 2, ch. 2003-413; s. 49, ch. 2004-41; s. 3, ch. 2004-42; s. 5, ch. 2004-271; s. 40, ch. 2006-74; s. 174, ch. 2007-5; s. 7, ch. 2008-142; s. 18, ch. 2008-235.

\*Note.—Substituted by the editors for a reference to subsection (9) to conform to the redesignation of subsection (9) as subsection (10) by s. 18, ch. 2008-235.

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#### **1008.25 Public school student progression; remedial instruction; reporting requirements.—**

(1) INTENT.—It is the intent of the Legislature that each student's progression from one grade to another be determined, in part, upon proficiency in reading, writing, science, and mathematics; that district school board policies facilitate such proficiency; and that each student and his or her parent be informed of that student's academic progress.

(2) COMPREHENSIVE PROGRAM.—Each district school board shall establish a comprehensive program for student progression which must include:

(a) Standards for evaluating each student's performance, including how well he or she masters the performance standards approved by the State Board of Education.

(b) Specific levels of performance in reading, writing, science, and mathematics for each grade level, including the levels of performance on statewide assessments as defined by the commissioner, below which a student must receive remediation, or be retained within an intensive program that is different from the previous year's program and that takes into account the student's learning style.

(c) Appropriate alternative placement for a student who has been retained 2 or more years.

(3) ALLOCATION OF RESOURCES.—District school boards shall allocate remedial and supplemental instruction resources to students in the following priority:

(a) Students who are deficient in reading by the end of grade 3.

(b) Students who fail to meet performance levels required for promotion consistent with the district school board's plan for student progression required in paragraph (2)(b).

(4) ASSESSMENT AND REMEDIATION.—

(a) Each student must participate in the statewide assessment tests required by s. 1008.22. Each student who does not meet specific levels of performance as determined by the district school board in reading, writing, science, and mathematics for each grade level, or who scores below Level 3 in reading or math, must be provided with additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction as described in paragraph (b).

(b) The school in which the student is enrolled must develop, in consultation with the student's parent, and must implement a progress monitoring plan. A progress monitoring plan is intended to provide the school district and the school flexibility in meeting the academic needs of the student and to reduce paperwork. A student who is not meeting the school district or state requirements for proficiency in reading and math shall be covered by one of the following plans to target instruction and identify ways to improve his or her academic achievement:

1. A federally required student plan such as an individual education plan;

2. A schoolwide system of progress monitoring for all students; or

3. An individualized progress monitoring plan.

The plan chosen must be designed to assist the student or the school in meeting state and district expectations for proficiency. If the student has been identified as having a deficiency in reading, the K-12 comprehensive reading plan required by s. 1011.62(9) shall include instructional and support services to be provided to meet the desired levels of performance. District school boards may require low-performing students to attend remediation programs held before or after regular school hours or during the summer if transportation is provided.

(c) Upon subsequent evaluation, if the documented deficiency has not been remediated, the student may be retained. Each student who does not meet the minimum performance expectations defined by the Commissioner of Education for the statewide assessment tests in reading, writing, science, and mathematics must continue to be provided with remedial or supplemental instruction until the expectations are met or the student graduates from high school or is not subject to compulsory school attendance.

#### (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

(a) It is the ultimate goal of the Legislature that every student read at or above grade level. Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten or grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency. The student's reading proficiency must be reassessed by locally determined assessments or through teacher observations at the beginning of the grade following the intensive reading instruction. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(b) Beginning with the 2002-2003 school year, if the student's reading deficiency, as identified in paragraph (a), is not remedied by the end of grade 3, as demonstrated by scoring at Level 2 or higher on the statewide assessment test in reading for grade 3, the student must be retained.

(c) The parent of any student who exhibits a substantial deficiency in reading, as described in paragraph (a), must be notified in writing of the following:

1. That his or her child has been identified as having a substantial deficiency in reading.
2. A description of the current services that are provided to the child.
3. A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.
4. That if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless he or she is exempt from mandatory

retention for good cause.

5. Strategies for parents to use in helping their child succeed in reading proficiency.

6. That the Florida Comprehensive Assessment Test (FCAT) is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the child to assist parents and the school district in knowing when a child is reading at or above grade level and ready for grade promotion.

7. The district's specific criteria and policies for midyear promotion. Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level.

#### (6) ELIMINATION OF SOCIAL PROMOTION.—

(a) No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

(b) The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(b), for good cause. Good cause exemptions shall be limited to the following:

1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program.

2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of State Board of Education rule.

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.

4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the FCAT.

5. Students with disabilities who participate in the FCAT and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading for more than 2 years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade 1, grade 2, or grade 3.

6. Students who have received intensive remediation in reading for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

(c) Requests for good cause exemptions for

students from the mandatory retention requirement as described in subparagraphs (b)3. and 4. shall be made consistent with the following:

1. Documentation shall be submitted from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's academic record. In order to minimize paperwork requirements, such documentation shall consist only of the existing progress monitoring plan, individual educational plan, if applicable, report card, or student portfolio.

2. The school principal shall review and discuss such recommendation with the teacher and make the determination as to whether the student should be promoted or retained. If the school principal determines that the student should be promoted, the school principal shall make such recommendation in writing to the district school superintendent. The district school superintendent shall accept or reject the school principal's recommendation in writing.

(7) SUCCESSFUL PROGRESSION FOR RETAINED READERS.–

(a) Students retained under the provisions of paragraph (5)(b) must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district's summer reading camp, and appropriate teaching methodologies necessary to assist those students in becoming successful readers, able to read at or above grade level, and ready for promotion to the next grade.

(b) Beginning with the 2004-2005 school year, each school district shall:

1. Conduct a review of student progress monitoring plans for all students who did not score above Level 1 on the reading portion of the FCAT and did not meet the criteria for one of the good cause exemptions in paragraph (6)(b). The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each such student.

2. Provide students who are retained under the provisions of paragraph (5)(b) with intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction and other strategies prescribed by the school district, which may include, but are not limited to:

- a. Small group instruction
- b. Reduced teacher-student ratios.
- c. More frequent progress monitoring
- d. Tutoring or mentoring.
- e. Transition classes containing 3rd and 4th grade students.
- f. Extended school day, week, or year.

g. Summer reading camps

3. Provide written notification to the parent of any student who is retained under the provisions of paragraph (5)(b) that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption as provided in paragraph (6)(b). The notification must comply with the provisions of s. 1002.20(15) and must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.

4. Implement a policy for the midyear promotion of any student retained under the provisions of paragraph (5)(b) who can demonstrate that he or she is a successful and independent reader, reading at or above grade level, and ready to be promoted to grade 4. Tools that school districts may use in reevaluating any student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Students promoted during the school year after November 1 must demonstrate proficiency above that required to score at Level 2 on the grade 3 FCAT, as determined by the State Board of Education. The State Board of Education shall adopt standards that provide a reasonable expectation that the student's progress is sufficient to master appropriate 4th grade level reading skills.

5. Provide students who are retained under the provisions of paragraph (5)(b) with a high-performing teacher as determined by student performance data and above-satisfactory performance appraisals.

6. In addition to required reading enhancement and acceleration strategies, provide parents of students to be retained with at least one of the following instructional options:

a. Supplemental tutoring in scientifically research-based reading services in addition to the regular reading block, including tutoring before and/or after school.

b. A "Read at Home" plan outlined in a parental contract, including participation in "Families Building Better Readers Workshops" and regular parent-guided home reading.

c. A mentor or tutor with specialized reading training.

7. Establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of grade 3 students and to offer intensive accelerated reading instruction to grade 3 students who failed to meet standards for promotion to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency. The READ Initiative shall:

a. Be provided to all K-3 students at risk of retention as identified by the statewide assessment system used in Reading First schools. The assessment must measure phonemic awareness, phonics,

fluency, vocabulary, and comprehension.

b. Be provided during regular school hours in addition to the regular reading instruction.

c. Provide a state-identified reading curriculum that has been reviewed by the Florida Center for Reading Research at Florida State University and meets, at a minimum, the following specifications:

(I) Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level.

(II) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(III) Provides scientifically based and reliable assessment.

(IV) Provides initial and ongoing analysis of each student's reading progress.

(V) Is implemented during regular school hours

(VI) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

8. Establish at each school, where applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score at Level 1 on the reading portion of the FCAT. The focus of the Intensive Acceleration Class shall be to increase a child's reading level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:

a. Be provided to any student in grade 3 who scores at Level 1 on the reading portion of the FCAT and who was retained in grade 3 the prior year because of scoring at Level 1 on the reading portion of the FCAT.

b. Have a reduced teacher-student ratio.

c. Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 Sunshine State Standards in other core subject areas.

d. Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.

e. Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

f. Include weekly progress monitoring measures to ensure progress is being made.

g. Report to the Department of Education, in the manner described by the department, the progress of students in the class at the end of the first semester.

9. Report to the State Board of Education, as requested, on the specific intensive reading interventions and supports implemented at the school district level. The Commissioner of Education shall annually prescribe the required components of requested reports.

10. Provide a student who has been retained in grade 3 and has received intensive instructional

services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. Such setting shall specifically be designed to produce learning gains sufficient to meet grade 4 performance standards while continuing to remediate the areas of reading deficiency.

(8) ANNUAL REPORT.—

(a) In addition to the requirements in paragraph (5)(b), each district school board must annually report to the parent of each student the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The district school board must report to the parent the student's results on each statewide assessment test. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent in writing in a format adopted by the district school board.

(b) Each district school board must annually publish in the local newspaper, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

1. The provisions of this section relating to public school student progression and the district school board's policies and procedures on student retention and promotion.

2. By grade, the number and percentage of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the FCAT.

3. By grade, the number and percentage of all students retained in grades 3 through 10.

4. Information on the total number of students who were promoted for good cause, by each category of good cause as specified in paragraph (6) (b).

5. Any revisions to the district school board's policy on student retention and promotion from the prior year.

(c) The Department of Education shall establish a uniform format for school districts to report the information required in paragraph (b). The format shall be developed with input from district school boards and shall be provided not later than 90 days prior to the annual due date. The department shall annually compile the information required in subparagraphs (b)2., 3., and 4., along with state-level summary information, and report such information to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(9) STATE BOARD AUTHORITY AND RESPONSIBILITIES.—

(a) The State Board of Education shall have authority as provided in s. 1008.32 to enforce this section.

(b) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 for the

administration of this section.

(10) TECHNICAL ASSISTANCE.—The department shall provide technical assistance as needed to aid district school boards in administering this

**1008.29 College-level communication and mathematics skills examination (CLAST).—**

(1) It is the intent of the Legislature that the examination of college-level communication and mathematics skills serve as a mechanism for students to demonstrate that they have mastered the academic competencies prerequisite to upper-division undergraduate instruction. It is further intended that the examination serve as both a summative evaluation instrument prior to student enrollment in upper-division programs and as a source of information for student advisers. It is not intended that student passage of the examination supplant the need for a student to complete the general education curriculum prescribed by an institution.

(2) Public postsecondary educational institutions shall administer a minimum of two administrations, one of which may consist of an alternative administration, of the college-level communication and computation skills examination per academic term. Such administrations shall be available to all lower-division students seeking associate in arts or baccalaureate degrees upon completion of at least 18 semester hours or the equivalent. Public postsecondary educational institutions shall report at a minimum the examination scores of all students tested at each administration of the college-level communication and computation skills examination.

(3) No public postsecondary educational institution shall confer an associate in arts or baccalaureate degree upon any student who fails to complete successfully the examination of college-level communication and computation skills. Students who received their associate in arts degree prior to September 1, 1982, shall be exempt from the provisions of this subsection.

(4) The State Board of Education, in conjunction with the Board of Governors, shall set the minimum scores that constitute successful completion of the examination. In establishing the minimum scores that constitute successful completion of the examination, the boards shall consider any possible negative impact of the tests on minority students. Determinations regarding a student's successful completion of the examination shall be based on the minimum standards for the date the student initially takes the examination.

(5) Any student who, in the best professional opinion of the university, has a specific learning disability such that the student can not demonstrate successful completion of one or more sections of the college-level communication and computation skills examination and is achieving at the college level in every area except that of the disability, and whose diagnosis indicates that further remediation

section.

History.—s. 371, ch. 2002-387; s. 8, ch. 2003-118; s. 6, ch. 2004-42; s. 6, ch. 2004-255; s. 119, ch. 2006-1; s. 42, ch. 2006-74; s. 186, ch. 2008-4.

will not succeed in overcoming the disability, may appeal through the appropriate dean to a committee appointed by the president or vice president for academic affairs for special consideration. The committee shall examine the evidence of the student's academic and medical records and may hear testimony relevant to the case. The committee may grant a waiver for one or more sections of the college-level communication and computation skills examination based on the results of its review.

(6) Each public postsecondary educational institution president shall establish a committee to consider requests for waivers from the provisions of subsection (3). The committee shall be chaired by the chief academic officer of the institution and shall have four additional members appointed by the president: a member of the mathematics department, a member of the English department, the institutional test administrator, and a fourth faculty member from a department other than English or mathematics. Any student who has taken a subtest of the examination required by this section at least four times and has not achieved a passing score, but has otherwise demonstrated proficiency in coursework in the same subject area, may request a waiver from that particular subtest. Waivers shall be considered only after students have been provided test accommodations or other administrative adjustments to permit the accurate measurement of the student's proficiency in the subject areas measured by the examination authorized in this section. The committee shall consider the student's educational records and other evidence as to whether the student should be able to pass the subtest under consideration. A waiver may be recommended to the president upon majority vote of the committee. The president may approve or disapprove the recommendation. The president may not approve a request which the committee has disapproved. If a waiver for a given subtest is approved, the student's transcript shall include a statement that the student did not meet the requirements of subsection (3) and that a waiver was granted.

(7) The State Board of Education, by rule, shall establish fees for the administration of the examination to private postsecondary students.

(8)(a) The State Board of Education, by rule, shall establish fees for the administration of the examination by community colleges at times other than regularly scheduled dates to accommodate examinees who are unable to be tested on those dates. The state board shall establish the conditions under which examinees may be admitted to the special administrations.

(b) The Board of Governors may establish fees

for the administration of the examination by state universities at times other than regularly scheduled dates to accommodate examinees who are unable to be tested on those dates. The Board of Governors may establish the conditions under which examinees may be admitted to the special administrations.

(9) Any student fulfilling one or both of the following requirements before completion of associate in arts degree requirements or baccalaureate degree requirements is exempt from the testing requirements of this section:

(a) Achieves a score that meets or exceeds a minimum score on a nationally standardized examination, as established by the State Board of Education in conjunction with the Board of Governors; or

(b) Demonstrates successful remediation of any academic deficiencies identified by the college placement test and achieves a cumulative grade point average of 2.5 or above, on a 4.0 scale, in

postsecondary-level coursework identified by the State Board of Education in conjunction with the Board of Governors. The Department of Education shall specify the means by which a student may demonstrate successful remediation.

Any student denied a degree prior to January 1, 1996, based on the failure of at least one subtest of the CLAST may use either of the alternatives specified in this subsection for receipt of a degree if such student meets all degree program requirements at the time of application for the degree under the exemption provisions of this subsection. This section does not require a student to take the CLAST before being given the opportunity to use any of the alternatives specified in this subsection. The exemptions provided herein do not apply to requirements for certification as provided in s. 1012.56.

History.—s. 372, ch. 2002-387; s. 50, ch. 2004-41; s. 123, ch. 2007-217.

Florida Statutes Pertaining to Special Programs  
Chapter 1009  
Educational Scholarships, Fees, and Financial Assistance

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**1009.41 State financial aid; students with a disability.**—Notwithstanding the provisions of s. 1009.40(1)(b)1.b. regarding the number of credits earned per term, or other financial aid eligibility requirements related to the number of required credits earned per term, a student with a documented disability, as defined by the Americans with Disabilities Act, shall be eligible to be considered for state financial aid while attending an eligible postsecondary institution on a part-time basis. The State Board

of Education shall establish the necessary criteria for documentation of the student's disability, and the postsecondary institution shall make the determination as to whether or not the disability is such that part-time status is a necessary accommodation. For the purposes of this section, financial aid funds may be prorated based on the number of credit hours taken.

History.—s. 414, ch. 2002-387.

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**1009.58 Critical teacher shortage tuition reimbursement program.**—

(1) A critical teacher shortage tuition reimbursement program shall be established for the purpose of improving the skills and knowledge of current teachers or persons preparing to teach in critical teacher shortage areas.

(2) The State Board of Education shall adopt rules to implement the critical teacher shortage tuition reimbursement program. Any full-time public school employee or lab school employee certified to teach in this state is eligible for the program. For the purposes of this program, tuition reimbursement shall be limited to courses in critical teacher shortage areas as determined by the State Board of Education. Such courses shall be:

(a) Graduate-level courses leading to a

master's, specialist, or doctoral degree;

(b) Graduate-level courses leading to a new certification area; or

(c) State-approved undergraduate courses leading to an advanced degree or new certification area.

(3) Participants may receive tuition reimbursement payments for up to 9 semester hours, or the equivalent in quarter hours, per year, at a rate not to exceed \$78 per semester hour, up to a total of 36 semester hours. All tuition reimbursements shall be contingent on passing an approved course with a minimum grade of 3.0 or its equivalent.

(4) This section shall be implemented only to the extent specifically funded and authorized by law.

History.—s. 436, ch. 2002-387; s. 59, ch. 2004-41.

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**1009.59 Critical Teacher Shortage Student Loan Forgiveness Program.**—

(1) The Critical Teacher Shortage Student Loan Forgiveness Program is established to encourage qualified personnel to seek employment in subject areas in which critical teacher shortages exist, as identified annually by the State Board of Education. The primary function of the program is to make repayments toward loans received by students from federal programs or commercial lending institutions for the support of postsecondary education study. Repayments are intended to be made to qualified applicants who begin teaching for the first time in designated subject areas, and who apply during their first year of teaching as certified teachers in these subject areas.

(2) From the funds available, the Department of Education may make loan principal repayments as follows:

(a) Up to \$2,500 a year for up to 4 years on behalf of selected graduates of state-approved undergraduate postsecondary teacher preparation programs, persons certified to teach pursuant to any applicable teacher certification requirements, or selected teacher preparation graduates from any

state participating in the Interstate Agreement on the Qualification of Educational Personnel.

(b) Up to \$5,000 a year for up to 2 years on behalf of selected graduates of state-approved graduate postsecondary teacher preparation programs, persons with graduate degrees certified to teach pursuant to any applicable teacher certification requirements, or selected teacher preparation graduates from any state participating in the Interstate Agreement on the Qualification of Educational Personnel.

(c) All repayments shall be contingent on continued proof of employment in the designated subject areas in this state and shall be made directly to the holder of the loan. The state shall not bear responsibility for the collection of any interest charges or other remaining balance. In the event that designated critical teacher shortage subject areas are changed by the State Board of Education, a teacher shall continue to be eligible for loan forgiveness as long as he or she continues to teach in the subject area for which the original loan repayment was made and otherwise meets all conditions of eligibility.

(3) Students receiving a scholarship loan or a

fellowship loan are not eligible to participate in the Critical Teacher Shortage Student Loan Forgiveness Program.

(4) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54

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**1009.62 Grants for teachers for special training in exceptional student education.—**

(1) The Department of Education may make grants to teachers for special training in exceptional student education to meet professional requirements with respect thereto, and the department is responsible for the administration of such program.

(2) These grants are limited to teachers who

(a) Hold a full-time contract to teach in a district school system, a state-operated or state-supported program, or an agency or organization under contract with the Department of Education;

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**1009.63 Occupational therapist or physical therapist critical shortage program; definitions.—**For the purposes of ss. 1009.63-1009.634:

(1) “Critical shortage area” applies to licensed occupational therapists and physical therapists and occupational therapy assistants and physical

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**1009.631 Occupational therapist or physical therapist critical shortage program; establishment.—**

(1) The occupational therapist or physical therapist critical shortage program is established in the Department of Education for the purpose of attracting capable and promising applicants in the occupational therapy or physical therapy profession to employment in the public schools of this state. The program shall include the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program, the Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program, and the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(2) Funds appropriated by the Legislature for

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**1009.632 Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program.—**

(1) There is established the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program. The primary function of the program is to make repayments toward loans received by students from institutions for the support of postsecondary study of occupational therapy or physical therapy. Repayments shall be made to qualified applicants who initiate employment in the public schools of this state and who apply during their first year of employment in a public school setting.

(2) From the funds available, the Department of Education is authorized to make loan principal repayments as follows:

necessary for the administration of this program.

(5) This section shall be implemented only to the extent as specifically funded and authorized by law.

History.—s. 437, ch. 2002-387.

(b) Hold a valid Florida educator’s certificate that does not reflect an exceptional-student-education coverage or endorsement that is appropriate for the teacher’s assignment; and

(c) Satisfactorily complete the eligible courses

(3) Grant amounts are to be determined on the basis of rates established by the Department of Education.

(4) The Department of Education shall administer this program under rules established by the State Board of Education.

History.—s. 441, ch. 2002-387.

therapist assistants employed by the public schools of this state.

(2) “Therapist” means occupational therapist or physical therapist.

History.—s. 442, ch. 2002-387.

the program shall be deposited in the State Student Financial Assistance Trust Fund. Any balance in the trust fund at the end of any fiscal year that has been allocated to the program shall remain therein and shall be available for carrying out the purposes of this section. Funds contained in the trust fund for the program shall be used for the programs specified in subsection (1) for those licensed therapists and therapy assistants employed by the public schools of this state.

(3) The State Board of Education shall annually review the designation of critical shortage areas and shall adopt rules necessary for the implementation of the program.

History.—s. 443, ch. 2002-387.

(a) Up to \$2,500 a year for up to 4 years on behalf of selected graduates of accredited undergraduate postsecondary occupational therapist or physical therapist preparation programs.

(b) Up to \$2,500 a year for up to 2 years on behalf of selected graduates of accredited undergraduate postsecondary occupational therapy or physical therapist assistant preparation programs.

(c) Up to \$5,000 a year for up to 2 years on behalf of selected graduates of accredited postbaccalaureate entry level occupational therapist or physical therapist preparation programs.

(d) All repayments shall be contingent on continued proof of employment for 3 years as a therapist or therapy assistant by the public schools in this state and shall be made directly to the holder of the loan. The state shall not bear the responsibility for

the collection of any interest charges or other remaining balance. In the event that a critical shortage is no longer verified, a therapist or therapy assistant shall continue to be eligible for loan forgiveness as long as the therapist or therapy assistant continues to be employed by the public schools of this state and otherwise meets all conditions of eligibility.

(3) Recipients under this program shall not be eligible to participate in the Critical Occupational

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**1009.633 Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program.—**

(1) There is established the Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program.

(2) To be eligible, a candidate shall:

(a) Be a full-time student in a therapy assistant program or in the upper division or higher level in an occupational therapist or physical therapist educational program. Occupational therapist and occupational therapy assistant programs must be accredited by the American Medical Association in collaboration with the American Occupational Therapy Association. Physical therapist and physical therapist assistant programs must be accredited by the American Physical Therapy Association.

(b) Have declared an intention to be employed by the public schools of this state for 3 years following completion of the requirements. In the event critical shortage areas are changed by the State Board of Education, a student shall continue to be eligible for an award as long as the student continues in the therapist educational program for which the initial award was made and the student otherwise meets all other conditions of eligibility.

(c) Meet the general requirements for student eligibility as provided in s. 1009.40, except as otherwise provided in this section.

(d) Maintain a grade point average of 2.0 on a 4.0 scale for undergraduate college work or a grade point average of 3.0 on a 4.0 scale for graduate col-

Therapist or Physical Therapist Shortage Scholarship Loan Program or the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(4) This section shall be implemented only to the extent as specifically funded by law.

History.—s. 444, ch. 2002-387.

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lege work.

(3) A scholarship loan may be awarded for no more than 2 years and may not exceed \$4,000 a year.

(4) The State Board of Education shall adopt by rule repayment schedules and applicable interest rates under ss. 1009.82 and 1009.95. A scholarship loan must be paid back within 10 years of completion of a program of studies.

(a) Credit for repayment of a scholarship loan shall be in an amount not to exceed \$2,000 plus applicable accrued interest for each full year of employment by the public schools of this state.

(b) Any therapist or therapy assistant who fails to be employed by a public school in this state as specified in this subsection is responsible for repaying the loan plus interest. Repayment schedules and applicable interest rates shall be determined by the rules of the State Board of Education under ss. 1009.82 and 1009.95.

(5) Recipients under this program shall not be eligible to participate in the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program or the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(6) This section shall be implemented only to the extent specifically funded and authorized by law.

History.—s. 445, ch. 2002-387.

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**1009.634 Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.—**

(1) There is established the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program to improve the skills and knowledge of current therapists and therapy assistants who are employed by the public school system.

(2) Any full-time public school employee licensed to practice occupational therapy or physical therapy in this state is eligible for the program.

(3) Participants may receive tuition reimbursement payments for up to 9 semester hours, or the equivalent in quarter hours, per year, at a rate not to exceed \$78 per semester hour, up to a total of 36 semester hours. All tuition reimbursements shall be

contingent on the participant passing an approved course with a minimum grade of 3.0 or its equivalent.

(4) The participant shall be employed by the public schools of this state for 3 years following completion of the requirements.

(5) Recipients under this program shall not be eligible to participate in the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program or the Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program.

(6) This section shall be implemented only to the extent specifically funded and authorized by the law.

History.—s. 446, ch. 2002-387.

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**1009.74 The Theodore R. and Vivian M. Johnson Scholarship Program.–**

(1) There is established the Theodore R. and Vivian M. Johnson Scholarship Program to be administered by the Department of Education. The program shall provide scholarships to students attending a state university. The program shall be funded by contributions from the Theodore R. and Vivian M. Johnson Scholarship Foundation and from state matching funds to be allocated from the University Major Gifts Program.

(2) The amount to be allocated to the program shall be on the basis of a 50-percent match of

funds from the University Major Gifts Program for each contribution received from the Theodore R. and Vivian M. Johnson Scholarship Foundation. The funds allocated to the program, including the corpus and interest income, shall be expended for scholarships to benefit disabled students attending a state university.

(3) Students eligible for receipt of scholarship funds shall provide documentation of a disability and shall have a demonstrated financial need for the funds.

History.–s. 456, ch. 2002-387; s. 122, ch. 2003-1; s. 6, ch. 2007-18.

Florida Statutes Pertaining to Special Programs  
Chapter 1010  
Financial Matters

**1010.20 Cost accounting and reporting for school districts.—**

(1) COST ACCOUNTING.—Each school district shall account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis in accordance with the manual developed by the Department of Education or as provided by law.

(2) COST REPORTING.—

(a) Each district shall report on a district-aggregate basis expenditures for inservice training pursuant to s. 1011.62(3) and for categorical programs as provided in s. 1011.62(6).

(b) Each district shall report on a school-by-school and on an aggregate district basis expenditures for each program funded in s. 1011.62(1)(c).

(c) The Commissioner of Education shall present to the Legislature, prior to the opening of the regular session each year, a district-by-district report of the expenditures reported pursuant to paragraphs (a) and (b). The report shall include total expenditures, a detailed analysis showing expenditures for each program, and such other data as may be useful for management of the education system. The Commissioner of Education shall also compute cost factors relative to the base student allocation for each funded program in s. 1011.62(1)(c).

(3) PROGRAM EXPENDITURE REQUIREMENTS.—

(a) Each district shall expend at least the per-

cent of the funds generated by each of the programs listed in this section on the aggregate total school costs for such programs:

1. Kindergarten and grades 1, 2, and 3, 90 percent.

2. Grades 4, 5, 6, 7, and 8, 80 percent

3. Grades 9, 10, 11, and 12, 80 percent.

4. Programs for exceptional students, on an aggregate program basis, 90 percent.

5. Grades 7 through 12 career education programs, on an aggregate program basis, 80 percent.

6. Students-at-risk programs, on an aggregate program basis, 80 percent.

7. Juvenile justice programs, on an aggregate program basis, 90 percent.

8. Any new program established and funded under s. 1011.62(1)(c), that is not included under subparagraphs 1.-7., on an aggregate basis as appropriate, 80 percent.

(b) Funds for inservice training established in s. 1011.62(3) and for categorical programs established in s. 1011.62(6) shall be expended for the costs of the identified programs as provided by law and in accordance with the rules of the State Board of Education.

History.—s. 537, ch. 2002-387; s. 5, ch. 2004-333; s. 127, ch. 2004-357; s. 13, ch. 2006-27.

**1010.215 Educational funding accountability.—**

(1) As used in this section, the term

(a) “Administrative personnel” means those employees responsible for management functions such as the development of broad policies and implementation of those policies through the direction of personnel.

(b) “Educational support personnel” means district-based and school-based employees, including professional staff, technicians, secretaries, clerks, skilled workers, transportation employees, food service employees, and custodial and maintenance workers.

(c) “Instructional personnel” means classroom teachers, including substitute teachers.

(d) “Instructional specialists” means staff members responsible for providing student personnel services, librarians, and media specialists.

(e) “Instructional support personnel” means aides or assistants to instructional personnel or instructional specialists.

(f) “Managers” means instructional and non-

instructional employees with some managerial and supervisory functions, although primarily responsible for general operations. This category includes only district-based employees.

(2) Each district school board must classify each employee of the district school board into one of the following categories:

(a) Instructional personnel

(b) Instructional specialists

(c) Instructional support personnel

(d) Administrative personnel

(e) Managers; o

(f) Educational support personnel.

The district school board shall notify each employee of such classification.

(3)(a) The school public accountability report to parents must include the number of employees in each of the categories listed in subsection (2), by work location. However, this does not include the number of temporary substitute employees.

(b) Any teacher-to-student ratio or class size measure required by law or State Board of Educa-

tion rule must be computed by dividing the number of students in membership at the school by the number of full-time equivalent instructional personnel pursuant to paragraph (2)(a). Class size reports for exceptional student education shall be computed by dividing the number of exceptional students in membership by the number of full-time equivalent exceptional education classroom teachers who are classified as instructional personnel pursuant to paragraph (2)(a).

(4)(a) All expenditures within the general and special revenue funds for each district school board, including salaries, benefits, purchased services, energy services, materials and supplies, capital outlay, and miscellaneous expenditures, for the following purposes are classified as administrative expenditures:

1. District school board.
2. General administration.
3. School administration, excluding support expenditures.
4. Facilities acquisition and construction at the district level.
5. Fiscal services.
6. Central services at the district level.

(b) All expenditures within the general and special revenue funds for each district school board, including salaries, benefits, purchased services, energy services, materials and supplies, capital outlay, and miscellaneous expenditures, for the following purposes are classified as instructional expenditures:

1. Instruction.
2. Instructional support services, including student personnel services, instructional media services, instruction and curriculum development, and instructional staff training services.
3. School administration, including support expenditures.
4. Facilities acquisition and construction at the school level.
5. Food services.
6. Central services at the school level.
7. Student transportation services
8. Operation of plant
9. Maintenance of plant.

Definitions for the functions specified in this subsection are specified in State Board of Education rules.

(5) The annual school public accountability report required by ss. 1001.42(18) and 1008.345 must include a school financial report. The purpose of the school financial report is to better inform parents and the public concerning how funds were spent to operate the school during the prior fiscal year. Each school's financial report must follow a uniform, districtwide format that is easy to read and understand.

(a) Total revenue must be reported at the school, district, and state levels. The revenue sources that must be addressed are state and local

funds, other than lottery funds; lottery funds; federal funds; and private donations.

(b) Expenditures must be reported as the total expenditures per unweighted full-time equivalent student at the school level and the average expenditures per full-time equivalent student at the district and state levels in each of the following categories and subcategories:

1. Teachers, excluding substitute teachers, and education paraprofessionals who provide direct classroom instruction to students enrolled in programs classified by s. 1011.62 as:

- a. Basic programs;
  - b. Students-at-risk programs;
  - c. Special programs for exceptional students
  - d. Career education programs; and
  - e. Adult programs
2. Substitute teachers.
3. Other instructional personnel, including school-based instructional specialists and their assistants.

4. Contracted instructional services, including training for instructional staff and other contracted instructional services.

5. School administration, including school-based administrative personnel and school-based education support personnel.

6. The following materials, supplies, and operating capital outlay:

- a. Textbooks;
  - b. Computer hardware and software;
  - c. Other instructional materials
  - d. Other materials and supplies; and
  - e. Library media materials
7. Food services.
8. Other support services
9. Operation and maintenance of the school plant.

(c) The school financial report must also identify the types of district-level expenditures that support the school's operations. The total amount of these district-level expenditures must be reported and expressed as total expenditures per full-time equivalent student.

(6) Based on the classifications in this section, each district school board shall annually submit a report by January 1, which identifies and summarizes administrative expenditures and instructional expenditures by fund for the preceding fiscal year. The report shall also state the number of unweighted full-time equivalent students enrolled in the school district. The total amount of administrative expenditures shall be divided by the number of unweighted full-time equivalent students to determine the administrative expenditures per student. This calculation is to be made separately for the general and the special revenue funds. In addition, the report shall reflect the number of employees in each category outlined in subsection (2) and the percentage of employees in each category, excluding the number of

temporary substitute employees. This report shall be submitted to the commissioner and shall be made available to the public. The school public accountability report shall contain notification of the availabil-

ity of this report.

History.—s. 539, ch. 2002-387; s. 63, ch. 2004-41; s. 23, ch. 2008-108.

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**1010.305 Audit of student enrollment.—**

(1) The Auditor General shall periodically examine the records of school districts, and other agencies as appropriate, to determine compliance with law and State Board of Education rules relating to the classification, assignment, and verification of full-time equivalent student enrollment and student transportation reported under the Florida Education Finance Program.

(2) If it is determined that the approved criteria and procedures for the placement of students and the conduct of programs have not been followed by

the district, appropriate adjustments in the full-time equivalent student count for that district must be made, and any excess funds must be deducted from subsequent allocations of state funds to that district. As provided for by rule, if errors in a specific program of a district recur in consecutive years due to lack of corrective action by the district, adjustments may be made based upon statistical estimates of error projected to the overall district program.

History.—s. 545, ch. 2002-387.



# Florida Statutes Pertaining to Special Programs

## Chapter 1011

### Planning and Budgeting

**1011.61 Definitions.**—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A “full-time equivalent student” in each program of the district is defined in terms of full-time students and part-time students as follows:

(a) A “full-time student” is one student on the membership roll of one school program or a combination of school programs listed in s. 1011.62(1)(c) for the school year or the equivalent for:

1. Instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program;

2. Instruction in a double-session school or a school utilizing an experimental school calendar approved by the Department of Education, comprising not less than the equivalent of 810 net hours in grades 4 through 12 or not less than 630 net hours in kindergarten through grade 3; or

3. Instruction comprising the appropriate number of net hours set forth in subparagraph 1. or subparagraph 2. for students who, within the past year, have moved with their parents for the purpose of engaging in the farm labor or fish industries, if a plan furnishing such an extended school day or week, or a combination thereof, has been approved by the commissioner. Such plan may be approved to accommodate the needs of migrant students only or may serve all students in schools having a high percentage of migrant students. The plan described in this subparagraph is optional for any school district and is not mandated by the state.

(b) A “part-time student” is a student on the active membership roll of a school program or combination of school programs listed in s. 1011.62(1)(c) who is less than a full-time student.

(c)1. A “full-time equivalent student” is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student, except a postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation, in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours

per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student’s time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in grades K-8 in a school district virtual instruction program as provided in s. 1002.45 shall consist of a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.

(IV) A full-time equivalent student for students in grades 9-12 in a school district virtual instruction program as provided in s. 1002.45 shall consist of six full credit completions in programs listed in s. 1011.62(1)(c)1. and 4. Credit completions can be a combination of either full credits or half credits.

(V) A Florida Virtual School full-time equivalent student shall consist of six full credit completions in the programs listed in s. 1011.62(1)(c)1. and 4. Credit completions can be a combination of either full credits or half credits.

(VI) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

(2) A “full-time equivalent student” is a student in grades 4 through 8 who is participating in a student-teacher adviser program conducted during

homeroom period, who is a fraction of a full-time equivalent membership based on net hours in the program, with a maximum of 36 net hours in any fiscal year. Each district program shall be approved by the Department of Education.

(3) For the purpose of calculating the “current operation program,” a student is in membership until he or she withdraws or until the close of the 11th consecutive school day of his or her absence, whichever comes first.

(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in

s. 1003.21(1)(e), except for a student as set forth in sub-sub-subparagraph (1)(c)1.b.(l), is one full-time equivalent student membership for a school year or equivalent.

(5) The “Florida Education Finance Program” includes all programs and costs as provided in s. 1011.62.

(6) “Basic programs” include, but are not limited to, language arts, mathematics, art, music, physical education, science, and social studies.

History.—s. 654, ch. 2002-387; s. 20, ch. 2003-391; s. 6, ch. 2008-147; s. 2, ch. 2008-174.

**1011.62 Funds for operation of schools.**—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(a) Determination of full-time equivalent membership.—During each of several school weeks, including scheduled intersessions of a year-round school program during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district’s full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the commissioner.

(b) Determination of base student allocation.—The base student allocation for the Florida Education Finance Program for kindergarten through grade 12 shall be determined annually by the Legislature and shall be that amount prescribed in the current year’s General Appropriations Act.

(c) Determination of programs.—Cost factors based on desired relative cost differences between the following programs shall be established in the annual General Appropriations Act. The Commissioner of Education shall specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need. For these students, the funding support level shall fund the exceptional students’ education program, with the exception of extended school year services for students with disabilities.

1. Basic programs.—
  - a. Kindergarten and grades 1, 2, and 3
  - b. Grades 4, 5, 6, 7, and 8.
  - c. Grades 9, 10, 11, and 12.

2. Programs for exceptional students.—

- a. Support Level IV.
- b. Support Level V.

3. Secondary career education programs.

4. English for Speakers of Other Languages.

(d) Annual allocation calculation.—

1. The Department of Education is authorized and directed to review all district programs and enrollment projections and calculate a maximum total weighted full-time equivalent student enrollment for each district for the K-12 FEFP.

2. Maximum enrollments calculated by the department shall be derived from enrollment estimates used by the Legislature to calculate the FEFP. If two or more districts enter into an agreement under the provisions of s. 1001.42(4)(d), after the final enrollment estimate is agreed upon, the amount of FTE specified in the agreement, not to exceed the estimate for the specific program as identified in paragraph (c), may be transferred from the participating districts to the district providing the program.

3. As part of its calculation of each district’s maximum total weighted full-time equivalent student enrollment, the department shall establish separate enrollment ceilings for each of two program groups. Group 1 shall be composed of basic programs for grades K-3, grades 4-8, and grades 9-12. Group 2 shall be composed of students in exceptional student education programs support levels IV and V, English for Speakers of Other Languages programs, and all career programs in grades 9-12.

a. For any calculation of the FEFP, the enrollment ceiling for group 1 shall be calculated by multiplying the actual enrollment for each program in the program group by its appropriate program weight.

b. The weighted enrollment ceiling for group 2 programs shall be calculated by multiplying the enrollment for each program by the appropriate program weight as provided in the General Appropriations Act. The weighted enrollment ceiling for program group 2 shall be the sum of the weighted enrollment ceilings for each program in the program group, plus the increase in weighted full-time equivalent student membership from the prior year for clients of the Department of Children and Family Services and the Department of Juvenile Justice.

c. If, for any calculation of the FEFP, the weighted enrollment for program group 2, derived by multiplying actual enrollments by appropriate program weights, exceeds the enrollment ceiling for that group, the following procedure shall be followed to reduce the weighted enrollment for that group to equal the enrollment ceiling:

(I) The weighted enrollment ceiling for each program in the program group shall be subtracted from the weighted enrollment for that program derived from actual enrollments.

(II) If the difference calculated under sub-sub-subparagraph (I) is greater than zero for any program, a reduction proportion shall be computed for the program by dividing the absolute value of the difference by the total amount by which the weighted enrollment for the program group exceeds the weighted enrollment ceiling for the program group.

(III) The reduction proportion calculated under sub-sub-subparagraph (II) shall be multiplied by the total amount of the program group's enrollment over the ceiling as calculated under sub-sub-subparagraph (I).

(IV) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be subtracted from the program's weighted enrollment to produce a revised program weighted enrollment.

(V) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be divided by the appropriate program weight, and the result shall be added to the revised program weighted enrollment computed in sub-sub-subparagraph (IV).

(e) Funding model for exceptional student education programs.—

1.a. The funding model uses basic, at-risk, support levels IV and V for exceptional students and career Florida Education Finance Program cost factors, and a guaranteed allocation for exceptional student education programs. Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. The nature and intensity of the services indicated on the matrix shall be consistent with the services described in each exceptional student's individual educational plan.

b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every 3 years by personnel who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school district must provide in order to ensure that exceptional students are provided a free, appropriate public education.

c. Students identified as exceptional, in accordance with chapter 6A-6, Florida Administrative Code, who do not have a matrix of services as specified in sub-subparagraph b. shall generate funds on the basis of full-time-equivalent student membership

in the Florida Education Finance Program at the same funding level per student as provided for basic students. Additional funds for these exceptional students will be provided through the guaranteed allocation designated in subparagraph 2.

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in grades K through 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(m) and rules of the State Board of Education, which shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall not be recalculated during the year. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in grades K through 8. Beginning with the 2007-2008 fiscal year, a district's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal year for gifted students in grades 9 through 12.

(f) Supplemental academic instruction; categorical fund.—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. Supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles

placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

(g) Education for speakers of other languages.—A school district shall be eligible to report full-time equivalent student membership in the ESOL program in the Florida Education Finance Program provided the following conditions are met:

1. The school district has a plan approved by the Department of Education.

2. The eligible student is identified and assessed as limited English proficient based on assessment criteria.

3.a. An eligible student may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to his or her enrollment in each additional year beyond the 3-year base period.

b. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the student's status.

4. An eligible student may be reported for funding in the ESOL program for membership in ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy.

(h) Small, isolated high schools.—Districts which levy the maximum nonvoted discretionary millage, exclusive of millage for capital outlay purposes levied pursuant to s. 1011.71(2), may calculate full-time equivalent students for small, isolated high schools by multiplying the number of unweighted full-time equivalent students times 2.75; provided the school has attained a grade of "C" or better, pursu-

ant to s. 1008.34, for the previous school year. For the purpose of this section, the term "small, isolated high school" means any high school which is located no less than 28 miles by the shortest route from another high school; which has been serving students primarily in basic studies provided by sub-subparagraphs (c)1.b. and c. and may include subparagraph (c)4.; and which has a membership of no more than 100 students, but no fewer than 28 students, in grades 9 through 12.

(i) Calculation of full-time equivalent membership with respect to dual enrollment instruction.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the school district may only report the student for a maximum of 1.0 full-time equivalent student membership, as provided in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a community college or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

(j) Coenrollment.—If a high school student wishes to earn high school credits from a community

college and enrolls in one or more adult secondary education courses at the community college, the community college shall be reimbursed for the costs incurred because of the high school student's coenrollment as provided in the General Appropriations Act.

(k) Instruction in exploratory career education.—Students in grades 7 through 12 who are enrolled for more than four semesters in exploratory career education may not be counted as full-time equivalent students for this instruction.

(l) Calculation of additional full-time equivalent membership based on international baccalaureate examination scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in an international baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an international baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided international baccalaureate instruction:

1. A bonus in the amount of \$50 for each student taught by the International Baccalaureate teacher in each international baccalaureate course who receives a score of 4 or higher on the international baccalaureate examination.

2. An additional bonus of \$500 to each International Baccalaureate teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 4 or higher on the international baccalaureate examination, regardless of the number of classes taught or of the number of students scoring a 4 or higher on the international baccalaureate examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(m) Calculation of additional full-time equivalent membership based on Advanced International Certificate of Education examination scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in a full-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.08 full-time equivalent student membership shall be calculated for each student enrolled in a half-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an Advanced International Certificate of Education diploma. Such

value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided Advanced International Certificate of Education instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced International Certificate of Education teacher in each full-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination. A bonus in the amount of \$25 for each student taught by the Advanced International Certificate of Education teacher in each half-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination.

2. An additional bonus of \$500 to each Advanced International Certificate of Education teacher in a school designated with a grade of "D" or "F" who has at least one student scoring E or higher on the full-credit Advanced International Certificate of Education examination, regardless of the number of classes taught or of the number of students scoring an E or higher on the full-credit Advanced International Certificate of Education examination.

3. Additional bonuses of \$250 each to teachers of half-credit Advanced International Certificate of Education classes in a school designated with a grade of "D" or "F" which has at least one student scoring an E or higher on the half-credit Advanced International Certificate of Education examination in that class. The maximum additional bonus for a teacher awarded in accordance with this subparagraph shall not exceed \$500 in any given school year. Teachers receiving an award under subparagraph 2. are not eligible for a bonus under this subparagraph.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(n) Calculation of additional full-time equivalent membership based on college board advanced placement scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced placement instruc-

tion:

1. A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(o) Calculation of additional full-time equivalent membership based on certification of successful completion of industry-certified career and professional academy programs pursuant to s. 1003.492.—A value of 0.3 full-time equivalent student membership shall be calculated for each student who completes an industry-certified career and professional academy program under s. 1003.492 and who is issued the highest level of industry certification and a high school diploma. Such value shall be added to the total full-time equivalent student membership in secondary career education programs for grades 9 through 12 in the subsequent year for courses that were not funded through dual enrollment. The additional full-time equivalent membership authorized under this paragraph may not exceed 0.3 per student. Unless a different amount is specified in the General Appropriations Act, the appropriation for this calculation is limited to \$15 million annually. If the appropriation is insufficient to fully fund the total calculation, the appropriation shall be prorated.

(p) Calculation of additional full-time equivalent membership for the Florida Virtual School.—The total reported full-time equivalent student membership for the Florida Virtual School shall be multiplied by 0.114, and such value shall be added to the total full-time equivalent student membership.

(q) Year-round-school programs.—The Commissioner of Education is authorized to adjust student eligibility definitions, funding criteria, and reporting requirements of statutes and rules in order that year-round-school programs may achieve equivalent application of funding requirements with non-year-round-school programs.

(r) Extended-school-year program.—It is the intent of the Legislature that students be provided additional instruction by extending the school year to 210 days or more. Districts may apply to the Commissioner of Education for funds to be used in planning and implementing an extended-school-year

program. The Department of Education shall recommend to the Legislature the policies necessary for full implementation of an extended school year.

(s) Determination of the basic amount for current operation.—The basic amount for current operation to be included in the Florida Education Finance Program for kindergarten through grade 12 for each district shall be the product of the following:

1. The full-time equivalent student membership in each program, multiplied by

2. The cost factor for each program, adjusted for the maximum as provided by paragraph (c), multiplied by

3. The base student allocation.

(t) Computation for funding through the Florida Education Finance Program.—The State Board of Education may adopt rules establishing programs and courses for which the student may earn credit toward high school graduation.

(2) DETERMINATION OF DISTRICT COST DIFFERENTIALS.—The Commissioner of Education shall annually compute for each district the current year's district cost differential. The district cost differential shall be calculated by adding each district's price level index as published in the Florida Price Level Index for the most recent 3 years and dividing the resulting sum by 3. The result for each district shall be multiplied by 0.008 and to the resulting product shall be added 0.200; the sum thus obtained shall be the cost differential for that district for that year.

(3) INSERVICE EDUCATIONAL PERSONNEL TRAINING EXPENDITURE.—Of the amount computed in subsections (1) and (2), a percentage of the base student allocation per full-time equivalent student or other funds shall be expended for educational training programs as determined by the district school board as provided in s. 1012.98.

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. Not later than July 19, the Commissioner of Education shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, when applied to 95 percent of the estimated state total taxable value for school purposes, would

generate the prescribed aggregate required local effort for that year for all districts. The Commissioner of Education shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.

b. The General Appropriations Act shall direct the computation of the statewide adjusted aggregate amount for required local effort for all school districts collectively from ad valorem taxes to ensure that no school district's revenue from required local effort millage will produce more than 90 percent of the district's total Florida Education Finance Program calculation, and the adjustment of the required local effort millage rate of each district that produces more than 90 percent of its total Florida Education Finance Program entitlement to a level that will produce only 90 percent of its total Florida Education Finance Program entitlement in the July calculation.

2. As revised data are received from property appraisers, the Department of Revenue shall amend the certification of the estimate of the taxable value for school purposes.

(b) Final calculation.—

1. The taxable value for school purposes certified by the Department of Revenue which is used in the fourth calculation with the annualized full-time student membership from the February student survey shall be the final taxable value used in the final calculation.

2. For purposes of this paragraph, the final taxable value for school purposes shall be the taxable value for school purposes on which the tax bills are computed and mailed to the taxpayers, adjusted to reflect final administrative actions of value adjustment boards and judicial decisions pursuant to chapter 194. For each county that has not submitted a revised tax roll reflecting final value adjustment board actions and final judicial decisions, the Department of Revenue shall certify the most recent revision of the taxable value for school purposes. The value certified under subparagraph 1. shall be the final taxable value for school purposes for that year, and no further adjustments shall be made, except those made pursuant to paragraph (12)(b).

(c) Equalization of required local effort.—

1. The Department of Revenue shall include with its certifications provided pursuant to paragraph (a) its most recent determination of the assessment level of the prior year's assessment roll for each county and for the state as a whole.

2. The Commissioner of Education shall adjust the required local effort millage of each district for the current year, computed pursuant to paragraph (a), as follows:

a. The equalization factor for the prior year's assessment roll of each district shall be multiplied by 95 percent of the taxable value for school purposes shown on that roll and by the prior year's required

local-effort millage, exclusive of any equalization adjustment made pursuant to this paragraph. The dollar amount so computed shall be the additional required local effort for equalization for the current year.

b. Such equalization factor shall be computed as the quotient of the prior year's assessment level of the state as a whole divided by the prior year's assessment level of the county, from which quotient shall be subtracted 1.

c. The dollar amount of additional required local effort for equalization for each district shall be converted to a millage rate, based on 95 percent of the current year's taxable value for that district, and added to the required local effort millage determined pursuant to paragraph (a).

3. Notwithstanding the limitations imposed pursuant to s. 1011.71(1), the total required local-effort millage, including additional required local effort for equalization, shall be an amount not to exceed 10 minus the maximum millage allowed as nonvoted discretionary millage, exclusive of millage authorized pursuant to s. 1011.71(2). Nothing herein shall be construed to allow a millage in excess of that authorized in s. 9, Art. VII of the State Constitution.

4. For the purposes of this chapter, the term "assessment level" means the value-weighted mean assessment ratio for the county or state as a whole, as determined pursuant to s. 195.096, or as subsequently adjusted. However, for those parcels studied pursuant to s. 195.096(3)(a)1. which are receiving the assessment limitation set forth in s. 193.155, and for which the assessed value is less than the just value, the department shall use the assessed value in the numerator and the denominator of such assessment ratio. In the event a court has adjudicated that the department failed to establish an accurate estimate of an assessment level of a county and recomputation resulting in an accurate estimate based upon the evidence before the court was not possible, that county shall be presumed to have an assessment level equal to that of the state as a whole.

5. If, in the prior year, taxes were levied against an interim assessment roll pursuant to s. 193.1145, the assessment level and prior year's nonexempt assessed valuation used for the purposes of this paragraph shall be those of the interim assessment roll.

(d) Exclusion.—

1. In those instances in which:

a. There is litigation either attacking the authority of the property appraiser to include certain property on the tax assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll, and

b. The assessed value of the property in contest involves more than 6 percent of the total non-exempt assessment roll, the plaintiff shall provide to the district school board of the county in which the

property is located and to the Department of Education a certified copy of the petition and receipt for the good faith payment at the time they are filed with the court.

2. For purposes of computing the required local effort for each district affected by such petition, the Department of Education shall exclude from the district's total nonexempt assessment roll the assessed value of the property in contest and shall add the amount of the good faith payment to the district's required local effort.

(e) Recomputation.—Following final adjudication of any litigation on the basis of which an adjustment in taxable value was made pursuant to paragraph (d), the department shall recompute the required local effort for each district for each year affected by such adjustments, utilizing taxable values approved by the court, and shall adjust subsequent allocations to such districts accordingly.

(5) DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.—The Legislature shall prescribe in the General Appropriations Act, pursuant to s. 1011.71(1), the rate of nonvoted current operating discretionary millage that shall be used to calculate a discretionary millage compression supplement. If the prescribed millage generates an amount of funds per unweighted FTE for the district that is less than the state average, the district shall receive an amount per FTE that, when added to the funds per FTE generated by the designated levy, shall equal the state average. To be eligible for the supplement, a district must levy the maximum authorized millage pursuant to s. 1011.71.

<sup>1</sup>(6) CATEGORICAL FUNDS.—

(a) In addition to the basic amount for current operations for the FEFP as determined in subsection (1), the Legislature may appropriate categorical funding for specified programs, activities, or purposes.

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation
2. Funds for safe schools.
3. Funds for supplemental academic instruction.
4. Funds for research-based reading instruction.
5. Funds for instructional materials if all instructional material purchases have been completed for that fiscal year, but no sooner than March 1, 2009.

(c) Each district school board shall include in its annual financial report to the Department of Educa-

tion the amount of funds the school board transferred from each of the categorical funds identified in this subsection and the specific academic classroom instruction for which the transferred funds were expended. The Department of Education shall provide instructions and specify the format to be used in submitting this required information as a part of the district annual financial report. The Department of Education shall submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were expended.

(d) If a district school board transfers funds from its research-based reading instruction allocation, the board must also submit to the Department of Education an amendment describing the changes that the district is making to its reading plan approved pursuant to paragraph (9)(d).

(7) DETERMINATION OF SPARSITY SUPPLEMENT.—

(a) Annually, in an amount to be determined by the Legislature through the General Appropriations Act, there shall be added to the basic amount for current operation of the FEFP qualified districts a sparsity supplement which shall be computed as follows:

$$\text{Sparsity Factor} = \frac{1101.8918}{\text{district index}} + 2700 - 0.1101 \times \text{district sparsity index}$$

except that districts with a sparsity index of 1,000 or less shall be computed as having a sparsity index of 1,000, and districts having a sparsity index of 7,308 and above shall be computed as having a sparsity factor of zero. A qualified district's full-time equivalent student membership shall equal or be less than that prescribed annually by the Legislature in the appropriations act. The amount prescribed annually by the Legislature shall be no less than 17,000, but no more than 24,000.

(b) The district sparsity index shall be computed by dividing the total number of full-time equivalent students in all programs in the district by the number of senior high school centers in the district, not in excess of three, which centers are approved as permanent centers by a survey made by the Department of Education.

(c) If the sparsity supplement calculated in paragraphs (a) and (b) for an eligible district is less than \$100 per full-time equivalent student, the district's supplement shall be increased to \$100 per FTE or to the minimum amount per FTE designated in the General Appropriations Act.

(d) Each district's allocation of sparsity supplement funds shall be adjusted in the following manner:

1. A maximum discretionary levy per FTE value for each district shall be calculated by dividing the

value of each district's maximum discretionary levy by its FTE student count.

2. A state average discretionary levy value per FTE shall be calculated by dividing the total maximum discretionary levy value for all districts by the state total FTE student count.

3. A total potential funds per FTE for each district shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee, for each district by its FTE student count.

4. A state average total potential funds per FTE shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee, for all districts by the state total FTE student count.

5. For districts that have a levy value per FTE as calculated in subparagraph 1. higher than the state average calculated in subparagraph 2., a sparsity wealth adjustment shall be calculated as the product of the difference between the state average levy value per FTE calculated in subparagraph 2. and the district's levy value per FTE calculated in subparagraph 1. and the district's FTE student count and -1. However, no district shall have a sparsity wealth adjustment that, when applied to the total potential funds calculated in subparagraph 3., would cause the district's total potential funds per FTE to be less than the state average calculated in subparagraph 4.

6. Each district's sparsity supplement allocation shall be calculated by adding the amount calculated as specified in paragraphs (a) and (b) and the wealth adjustment amount calculated in this paragraph.

(8) DECLINE IN FULL-TIME EQUIVALENT STUDENTS.—In those districts where there is a decline between prior year and current year unweighted FTE students, a percentage of the decline in the unweighted FTE students as determined by the Legislature shall be multiplied by the prior year calculated FEFP per unweighted FTE student and shall be added to the allocation for that district. For this purpose, the calculated FEFP shall be computed by multiplying the weighted FTE students by the base student allocation and then by the district cost differential. If a district transfers a program to another institution not under the authority of the district's school board, including a charter technical career center, the decline is to be multiplied by a factor of 0.15. However, if the funds provided for the Florida Education Finance Program in the General Appropriations Act for any fiscal year are reduced by a subsequent appropriation for that fiscal year, the percent of the decline in the unweighted FTE students to be funded shall be determined by the Legislature and designated in the subsequent appropriation.

(9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

(a) The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12.

(b) Funds for comprehensive, research-based reading instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district shall receive the same minimum amount as specified in the General Appropriations Act, and any remaining funds shall be distributed to eligible school districts based on each school district's proportionate share of K-12 base funding.

(c) Funds allocated under this subsection must be used to provide a system of comprehensive reading instruction to students enrolled in the K-12 programs, which may include the following:

1. The provision of highly qualified reading coaches.

2. Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text.

3. The provision of summer reading camps for students who score at Level 1 on FCAT Reading.

4. The provision of supplemental instructional materials that are grounded in scientifically based reading research.

5. The provision of intensive interventions for middle and high school students reading below grade level.

(d) Annually, by a date determined by the Department of Education but before May 1, school districts shall submit a K-12 comprehensive reading plan for the specific use of the research-based reading instruction allocation in the format prescribed by the department for review and approval by the Just Read, Florida! Office created pursuant to s. 1001.215. The plan annually submitted by school districts shall be deemed approved unless the department rejects the plan on or before June 1. If a school district and the Just Read, Florida! Office cannot reach agreement on the contents of the plan, the school district may appeal to the State Board of Education for resolution. School districts shall be allowed reasonable flexibility in designing their plans and shall be encouraged to offer reading remediation through innovative methods, including career academies. The plan format shall be developed with input from school district personnel, including teachers and principals, and shall allow courses in core, career, and alternative programs that deliver intensive reading remediation through integrated curricula, provided that the teacher is deemed highly qualified to teach reading or working toward that status. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. A school district that spends 100 percent of

this allocation on its approved plan shall be deemed to have been in compliance with the plan. The department may withhold funds upon a determination that reading instruction allocation funds are not being used to implement the approved plan.

(10) CALCULATION OF SUPPLEMENTAL ALLOCATION FOR JUVENILE JUSTICE EDUCATION PROGRAMS.—The total K-12 weighted full-time equivalent student membership in juvenile justice education programs in each school district shall be multiplied by the amount of the state average class-size-reduction factor multiplied by the district's cost differential. An amount equal to the sum of this calculation shall be allocated in the FEFP to each school district to supplement other sources of funding for students in juvenile justice education programs.

(11) QUALITY ASSURANCE GUARANTEE.—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 unweighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per unweighted FTE student which shall include the adjusted FTE dollars as provided in subsection (12), quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per unweighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection (12) and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per unweighted FTE to prior year funds per unweighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per unweighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

(12) TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(a) The basic amount for current operation for the FEFP as determined in subsection (1), multiplied by the district cost differential factor as determined in subsection (2), plus the amounts provided for categorical components within the FEFP, plus the discretionary millage compression supplement as determined in subsection (5), the amount for the sparsity supplement as determined in subsection (7), the decline in full-time equivalent students as determined in subsection (8), the research-based

reading instruction allocation as determined in subsection (9), the allocation for juvenile justice education programs as determined in subsection (10), the quality assurance guarantee as determined in subsection (11), less the required local effort as determined in subsection (4). If the funds appropriated for the purpose of funding the total amount for current operation as provided in this paragraph are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.

2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.

3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change required by final judicial decision, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. Beginning with audits for the 2001-2002 fiscal year, if the adjustment is the result of an audit finding in which group 2 FTE are reclassified to the basic program and the district weighted FTE are over the weighted enrollment ceiling for group 2 programs, the adjustment shall not result in a gain of state funds to the district. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

(c) The amount thus obtained shall represent the net annual state allocation to each district; however, notwithstanding any of the provisions herein, each district shall be guaranteed a minimum level of funding in the amount and manner prescribed in the General Appropriations Act.

History.—s. 655, ch. 2002-387; s. 124, ch. 2003-1; s. 15, ch. 2003-391; s. 68, ch. 2004-41; s. 8, ch. 2004-271; s. 10, ch. 2004-349; s. 129, ch. 2004-357; s. 10, ch. 2005-56; s. 10, ch. 2005-196; s. 6, ch. 2006-27; s. 50, ch. 2006-74; s. 177, ch. 2007-5; s. 3, ch. 2007-59; s. 5, ch. 2007-216; ss. 2, 3, ch. 2007-328; ss. 8, 9, ch. 2008-142.

'Note.—Section 9, ch. 2008-142, provides that "[t]he amendments to s. 1011.62(6), Florida Statutes, made by this act shall expire July 1, 2009, and the text of that subsection shall revert to that in existence on the day before the effective date of chapter 2007-328, Laws of Florida, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text that expire pursuant to

this section." Effective July 1, 2009, subsection (6), as amended by s. 9, ch. 2008-142, will read:

(6) CATEGORICAL FUNDS.—

(a) In addition to the basic amount for current operations for the FEFP as determined in subsection (1), the Legislature may appropriate categorical funding for specified programs, activities, or purposes.

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school

district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation
2. Funds for safe schools.
3. Funds for supplemental academic instruction

(c) Each district school board shall include in its annual financial report to the Department of Education the amount of funds the school board transferred from each of the categorical funds identified in this subsection and the specific academic classroom instruction for which the transferred funds were expended. The Department of Education shall provide instructions and specify the format to be used in submitting this required information as a part of the district annual financial report.

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**1011.68 Funds for student transportation.**—The annual allocation to each district for transportation to public school programs, including charter schools as provided in s. 1002.33(17)(b), of students in membership in kindergarten through grade 12 and in migrant and exceptional student programs below kindergarten shall be determined as follows:

(1) Subject to the rules of the State Board of Education, each district shall determine the membership of students who are transported:

(a) By reason of living 2 miles or more from school.

(b) By reason of being students with disabilities or enrolled in a teenage parent program, regardless of distance to school.

(c) By reason of being in a state prekindergarten program, regardless of distance from school.

(d) By reason of being career, dual enrollment, or students with disabilities transported from one school center to another to participate in an instructional program or service; or students with disabilities, transported from one designation to another in the state, provided one designation is a school center and provided the student's individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A "school center" is defined as a public school center, community college, state university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a community college or a state university program under a written agreement to partially fulfill ss. 1003.435 and 1007.23 and earning full-time equivalent membership under s. 1011.62(1)(i).

(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 1006.23. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 1003.54, regardless of distance from school.

(2) The allocation for each district shall be

calculated annually in accordance with the following formula:

$T = B + EX$ . The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by the prior year's average per student cost for transportation. The adjusted disabled student membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent.

(3) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsection (2). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the base transportation allocation and the base transportation allocation for disabled students, the Department of Education shall prorate the available funds on a percentage basis. If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2), and the remaining balance shall be added to the base transportation allocation.

(4) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as prescribed in s. 1006.27(1).

(5) Funds allocated or apportioned for the

payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student must be equal to the allocation per student riding a school bus.

(6) Notwithstanding other provisions of this

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**1011.685 Class size reduction; operating categorical fund.—**

(1) There is created an operating categorical fund for implementing the class size reduction provisions of s. 1, Art. IX of the State Constitution. These funds shall be allocated to each school district in the amount prescribed by the Legislature in the General Appropriations Act.

(2) Class size reduction operating categorical funds shall be used by school districts for the following:

(a) To reduce class size in any lawful manner, if

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**1011.70 Medicaid certified school funding maximization.—**

(1) Each school district, subject to the provisions of ss. 409.9071 and 409.908(21) and this section, is authorized to certify funds provided for a category of required Medicaid services termed “school-based services,” which are reimbursable under the federal Medicaid program. Such services shall include, but not be limited to, physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such services, for the purpose of receiving federal Medicaid financial participation. Certified school funding shall not be available for the following services:

(a) Family planning

(b) Immunizations.

(c) Prenatal care.

(2) The Agency for Health Care Administration

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**1011.75 Gifted education exemplary program grants.—**

(1) This section shall be known and may be cited as the “Challenge Grant Program for the Gifted.”

(2) There is hereby created a grant program for education for the gifted which shall be administered

section, in no case shall any student or students be counted for transportation funding more than once per day. This provision includes counting students for funding pursuant to trips in school buses, passenger cars, or boats or general purpose transportation.

(7) Any funds received by a school district under this section that are not required to transport students may, at the discretion of the district school board, be transferred to the district’s Florida Education Finance Program.

History.—s. 660, ch. 2002-387; s. 3, ch. 2003-393; s. 130, ch. 2004-357.

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the district has not met the constitutional maximums identified in s. 1003.03(1) or the reduction of two students per year required by s. 1003.03(2).

(b) For any lawful operating expenditure, if the district has met the constitutional maximums identified in s. 1003.03(1) or the reduction of two students per year required by s. 1003.03(2); however, priority shall be given to increase salaries of classroom teachers as defined in s. 1012.01(2)(a) and to implement the differentiated-pay provisions detailed in s. 1012.22.

History.—s. 3, ch. 2003-391; s. 26, ch. 2004-295; s. 53, ch. 2006-74.

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shall monitor compliance of each participating school district with the Medicaid provider agreements. In addition, the Agency for Health Care Administration shall develop standardized recordkeeping procedures for the school districts that meet Medicaid requirements for audit purposes.

(3) Each school district’s continued participation in certifying funds to be reimbursed for Medicaid expenditures is contingent upon the district providing to the department an annual accounting of how the federal Medicaid reimbursements are utilized.

(4) Funds generated pursuant to this section may be used for autism therapy services allowed by federal law.

(5) Lab schools, as authorized under s. 1002.32, shall be authorized to participate in the Medicaid certified school match program on the same basis as school districts subject to the provisions of subsections (1)-(4) and ss. 409.9071 and 409.908(21).

History.—s. 662, ch. 2002-387; s. 69, ch. 2004-41.

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by the Commissioner of Education in cooperation and consultation with appropriate organizations and associations concerned with education for the gifted and pursuant to rules adopted by the State Board of Education. The program may be implemented in any public school.

(3) Pursuant to policies and rules to be adopted

by the State Board of Education, each district school board, two or more district school boards in cooperation, or a public school principal through the district school board may submit to the commissioner a proposed program designed to effectuate an exemplary program for education for the gifted in a school, district, or group of districts. Consideration for funding shall be given to proposed programs of district school boards that are developed with the cooperation of a community college or public or private college or university for the purpose of providing advanced accelerated instruction for public school students pursuant to s. 1003.435. In order to be approved, a program proposal must include:

- (a) Clearly stated goals and objectives expressed, to the maximum extent possible, in measurable terms.
- (b) Information concerning the number of students, teachers, and other personnel to be involved in the program.

(c) The estimated cost of the program and the number of years for which it is to be funded.

(d) Provisions for evaluation of the program and for its integration into the general curriculum and financial program of the school district or districts at the end of the funded period.

(e) Such other information and provisions as the commissioner requires.

(4) The commissioner shall review and approve, disapprove, or resubmit for modification all proposed programs for education for the gifted submitted. For those programs approved, the commissioner shall authorize distribution of funds equal to the cost of the program from funds appropriated to the Department of Education for exemplary program grants for education for the gifted as provided for by this section. These funds shall be in addition to any funds for education for the gifted provided pursuant to s. 1011.62.

History.—s. 668, ch. 2002-387.

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**1011.84 Procedure for determining state financial support and annual apportionment of state funds to each community college district.**—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 1001.61 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(a) The Department of Education shall determine annually from an analysis of operating costs, prepared in the manner prescribed by rules of the State Board of Education, the costs per full-time equivalent student served in courses and fields of study offered in community colleges. This information and current college operating budgets shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature.

(b) The allocation of funds for community colleges shall be based on advanced and professional disciplines, college-preparatory programs, and other programs for adults funded pursuant to s. 1011.80.

(c) The category of lifelong learning is for students enrolled pursuant to s. 1004.93. A student shall also be reported as a lifelong learning student for his or her enrollment in any course that he or she has previously taken, unless it is a credit course in which the student earned a grade of D or F.

(d) If an adult student has been determined to be a disabled student eligible for an approved educational program for disabled adults provided pursuant to s. 1004.93 and rules of the State Board of Education and is enrolled in a class with

curriculum frameworks developed for the program, state funding for that student shall be provided at a level double that of a student enrolled in a special adult general education program provided by a community college.

(e) All state inmate education provided by community colleges shall be reported by program, FTE expenditure, and revenue source. These enrollments, expenditures, and revenues shall be reported and projected separately. Instruction of state inmates shall not be included in the full-time equivalent student enrollment for funding through the Community College Program Fund.

(f) When a public educational institution has been fully funded by an external agency for direct instructional costs of any course or program, the FTE generated shall not be reported for state funding.

(g) The State Board of Education shall adopt rules to implement s. 9(d)(8)f., Art. XII of the State Constitution. These rules shall provide for the use of the funds available under s. 9(d)(8)f., Art. XII by an individual community college for operating expense in any fiscal year during which the State Board of Education has determined that all major capital outlay needs have been met. Highest priority for the use of these funds for purposes other than financing approved capital outlay projects shall be for the proper maintenance and repair of existing facilities for projects approved by the State Board of Education. However, in any fiscal year in which funds from this source are authorized for operating expense other than approved maintenance and repair projects, the allocation of community college program funds shall be reduced by an amount equal to the sum used for such operating expense for that community college that year, and that amount shall not be released or allocated among the other

community colleges that year.

(2) DETERMINING THE AMOUNT TO BE INCLUDED FOR CAPITAL OUTLAY AND DEBT SERVICE.—The amount included for capital outlay and debt service shall be as determined and provided in s. 18, Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII of the 1968 revised State Constitution and State Board of Education rules.

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(a) By December 15 of each year, the Department of Education shall estimate the annual enrollment of each community college for the current fiscal year and for the 6 subsequent fiscal years. These estimates shall be based upon prior years' enrollments, upon the initial fall term enrollments for the current fiscal year for each college, and upon each college's estimated current enrollment and demographic changes in the respective community college districts.

(b) The apportionment to each community college from the Community College Program Fund shall be determined annually in the General Appropriations Act. In determining each college's apportionment, the Legislature shall consider the following components:

1. Base budget, which includes the state appropriation to the Community College Program Fund in the current year plus the related student tuition and out-of-state fees assigned in the current General Appropriations Act.

2. The cost-to-continue allocation, which consists of incremental changes to the base budget, including salaries, price levels, and other related costs allocated through a funding model approved by the Legislature which may recognize differing economic factors arising from the individual educational approaches of the various community colleges, including, but not limited to:

a. Direct Instructional Funding, including class size, faculty productivity factors, average faculty salary, ratio of full-time to part-time faculty, costs of programs, and enrollment factors.

b. Academic Support, including small college factor, multicampus factor, and enrollment factor.

c. Student Services Support, including headcount of students as well as FTE count and enrollment factors.

d. Library Support, including volume and other materials/audiovisual requirements.

e. Special Projects

f. Operations and Maintenance of Plant, including square footage and utilization factors.

g. District Cost Differential.

3. Students enrolled in a recreation and leisure program and students enrolled in a lifelong learning program who may not be counted as full-time equivalent enrollments for purposes of enrollment workload adjustments.

4. Operating costs of new facilities adjustments, which shall be provided, from funds available, for each new facility that is owned by the college and is recommended in accordance with s. 1013.31.

5. New and improved program enhancements, which shall be determined by the Legislature.

Student fees in the base budget plus student fee revenues generated by increases in fee rates shall be deducted from the sum of the components determined in subparagraphs 1.-5. The amount remaining shall be the net annual state apportionment to each college.

(c) No community college shall commit funds for the employment of personnel or resources in excess of those required to continue the same level of support for either the previously approved enrollment or the revised enrollment, whichever is lower.

(d) The apportionment to each community college district for capital outlay and debt service shall be the amount determined in accordance with subsection (2). This amount, less any amount determined as necessary for administrative expense by the State Board of Education and any amount necessary for debt service on bonds issued by the State Board of Education, shall be transmitted to the community college board of trustees to be expended in a manner prescribed by rules of the State Board of Education.

(e) If at any time the unencumbered balance in the general fund of the community college board of trustees approved operating budget goes below 5 percent, the president shall provide written notification to the State Board of Education.

(f) Expenditures for apprenticeship programs shall be reported separately.

(4) EXPENDITURE OF ALLOCATED FUNDS.—Any funds allocated herein to any community college shall be expended only for the purpose of supporting that community college.

(5) REPORT OF REMEDIAL EDUCATION.—Each community college board of trustees shall report the volume and cost of remedial education activities as a separate item in its annual cost accounting system.

History.—s. 679, ch. 2002-387; s. 13, ch. 2004-271.

# Florida Statutes Pertaining to Special Programs

## Chapter 1012

### Personnel

**1012.01 Definitions.**—As used in this chapter, the following terms have the following meanings:

(1) **SCHOOL OFFICERS.**—The officers of the state system of public K-12 and community college education shall be the Commissioner of Education and the members of the State Board of Education; for each district school system, the officers shall be the district school superintendent and members of the district school board; and for each community college, the officers shall be the community college president and members of the community college board of trustees.

(2) **INSTRUCTIONAL PERSONNEL.**—“Instructional personnel” means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:

(a) **Classroom teachers.**—Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers.

(b) **Student personnel services.**—Student personnel services include staff members responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions. Included in this classification are guidance counselors, social workers, career specialists, and school psychologists.

(c) **Librarians/media specialists.**—Librarians/media specialists are staff members responsible for providing school library media services. These employees are responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems; facilitating access to information resources beyond the school; working with teachers to make resources available in the instructional programs; assisting teachers and students in media productions; and instructing students in the location and use of information resources.

(d) **Other instructional staff.**—Other instructional staff are staff members who are part of the instructional staff but are not classified in one of the categories specified in paragraphs (a)-(c). Included in this classification are primary specialists, learning resource specialists, instructional trainers, adjunct

educators certified pursuant to s. 1012.57, and similar positions.

(e) **Education paraprofessionals.**—Education paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding the instructional process. Included in this classification are classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals.

(3) **ADMINISTRATIVE PERSONNEL.**—“Administrative personnel” includes K-12 personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level, responsible personnel who have been assigned the responsibilities of systemwide or schoolwide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of K-12 administrative personnel are as follows:

(a) **District-based instructional administrators.**—Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the instructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major instructional areas, such as curriculum, federal programs such as Title I, specialized instructional program areas such as exceptional student education, career education, and similar areas.

(b) **District-based noninstructional administrators.**—Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the noninstructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance.

(c) School administrators.—Included in this classification are:

1. School principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors.

2. Assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

(4) YEAR OF SERVICE.—The minimum time which may be recognized in administering K-12 education, not including retirement, as a year of service by a school employee shall be full-time actual service; and, beginning July 1963, such service shall also include sick leave and holidays for which compensation was received but shall exclude all other types of leave and holidays for a total of more than one-half of the number of days required for the normal contractual period of service for the position held, which shall be 196 days or longer, or the minimum required for the district to participate in the Florida Education Finance Program in the year service was rendered, or the equivalent for service performed on a daily or hourly basis; provided, further, that absence from duty after the date of beginning service shall be covered by leave duly authorized and granted; further, the school board shall have authority to establish a different minimum for local district school purposes.

(5) SCHOOL VOLUNTEER.—A K-12 school volunteer is any nonpaid person who may be appointed by a district school board or its designee. School volunteers may include, but may not be limited to, parents, senior citizens, students, and others who assist the teacher or other members of the school staff.

(6) EDUCATIONAL SUPPORT EMPLOYEES.—“Educational support employees” means K-12 employees whose job functions are neither administrative nor instructional, yet whose work supports the educational process.

(a) Other professional staff or nonadministrative/noninstructional employees are staff members who perform professional job functions which are nonadministrative/noninstructional in nature and who are not otherwise classified in this section. Included in this classification are employees such as doctors,

nurses, attorneys, certified public accountants, and others appropriate to the classification.

(b) Technicians are individuals whose occupations require a combination of knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many career centers and community colleges, or through equivalent on-the-job training.

(c) Clerical/secretarial workers are individuals whose job requires skills and training in clerical-type work, including activities such as preparing, transcribing, systematizing, or preserving written communications and reports or operating equipment performing those functions. Included in this classification are secretaries, bookkeepers, messengers, and office machine operators.

(d) Skilled crafts workers are individuals who perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Lead workers for the various skilled crafts areas shall be included in this classification.

(e) Service workers are staff members performing a service for which there are no formal qualifications, including those responsible for: cleaning the buildings, school plants, or supporting facilities; maintenance and operation of such equipment as heating and ventilation systems; preserving the security of school property; and keeping the school plant safe for occupancy and use. Lead workers in the various service areas shall be included in this broad classification.

(7) MANAGERS.—“Managers” includes those K-12 staff members who perform managerial and supervisory functions while usually also performing general operations functions. Managers may be either instructional or noninstructional in their responsibility. They may direct employees’ work, plan the work schedule, control the flow and distribution of work or materials, train employees, handle complaints, authorize payments, and appraise productivity and efficiency of employees. This classification includes coordinators and supervisors working under the general direction of those staff identified as district-based instructional or noninstructional administrators.

History.—s. 689, ch. 2002-387; s. 6, ch. 2004-295; ss. 6, 131, ch. 2004-357; s. 161, ch. 2007-217.

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### **1012.07 Identification of critical teacher shortage areas. —**

(1) As used in ss. 1009.57, 1009.58, and 1009.59, the term “critical teacher shortage area” applies to mathematics, science, career education, and high priority location areas. The State Board of Education may identify career education programs having critical teacher shortages. The State Board of Education shall adopt rules pursuant to

ss. 120.536(1) and 120.54 necessary to annually identify other critical teacher shortage areas and high priority location areas. The state board shall also consider teacher characteristics such as ethnic background, race, and sex in determining critical teacher shortage areas. School grade levels may also be designated critical teacher shortage areas. Individual district school boards may identify other critical teacher shortage areas. Such shortages must

be certified to and approved by the State Board of Education. High priority location areas shall be in high-density, low-economic urban schools and low-density, low-economic rural schools and shall include schools which meet criteria which include, but are not limited to, the percentage of free lunches, the percentage of students under Chapter I of the

Education Consolidation and Improvement Act of 1981, and the faculty attrition rate.

(2) This section shall be implemented only to the extent as specifically funded and authorized by law.

History.--s. 693, ch. 2002-387.

**1012.22 Public school personnel; powers and duties of the district school board.**—The district school board shall:

(1) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of this chapter:

(a) Positions, qualifications, and appointments.—

1. The district school board shall act upon written recommendations submitted by the district school superintendent for positions to be filled, for minimum qualifications for personnel for the various positions, and for the persons nominated to fill such positions.

2. The district school board may reject for good cause any employee nominated.

3. If the third nomination by the district school superintendent for any position is rejected for good cause, if the district school superintendent fails to submit a nomination for initial employment within a reasonable time as prescribed by the district school board, or if the district school superintendent fails to submit a nomination for reemployment within the time prescribed by law, the district school board may proceed on its own motion to fill such position.

4. The district school board's decision to reject a person's nomination does not give that person a right of action to sue over the rejection and may not be used as a cause of action by the nominated employee.

(b) Time to act on nominations.—The district school board shall act not later than 3 weeks following the receipt of FCAT scores and data, including school grades, or June 30, whichever is later, on the district school superintendent's nominations of supervisors, principals, and members of the instructional staff.

(c) Compensation and salary schedules.

1. The district school board shall adopt a salary schedule or salary schedules designed to furnish incentives for improvement in training and for continued efficient service to be used as a basis for paying all school employees and fix and authorize the compensation of school employees on the basis thereof.

2. A district school board, in determining the salary schedule for instructional personnel, must base a portion of each employee's compensation on performance demonstrated under s. 1012.34, must consider the prior teaching experience of a person

who has been designated state teacher of the year by any state in the United States, and must consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions.

3. In developing the salary schedule, the district school board shall seek input from parents, teachers, and representatives of the business community.

4. Beginning with the 2007-2008 academic year, each district school board shall adopt a salary schedule with differentiated pay for both instructional personnel and school-based administrators. The salary schedule is subject to negotiation as provided in chapter 447 and must allow differentiated pay based on district-determined factors, including, but not limited to, additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.

(d) Contracts and terms of service.—The district school board shall provide written contracts for all regular members of the instructional staff.

(e) Transfer and promotion.—The district school board shall act on recommendations of the district school superintendent regarding transfer and promotion of any employee.

(f) Suspension, dismissal, and return to annual contract status.—The district school board shall suspend, dismiss, or return to annual contract members of the instructional staff and other school employees; however, no administrative assistant, supervisor, principal, teacher, or other member of the instructional staff may be discharged, removed, or returned to annual contract except as provided in this chapter.

(g) Awards and incentives.—The district school board shall provide for recognition of district employees, students, school volunteers, and advisory committee members who have contributed outstanding and meritorious service in their fields or service areas. After considering recommendations of the district school superintendent, the district school board shall adopt rules establishing and regulating the meritorious service awards necessary for the efficient operation of the program. An award or incentive granted under this paragraph may not be considered in determining the salary schedules required by paragraph (c). Monetary awards shall be limited to persons who propose procedures or ideas adopted by the board which will result in eliminating or reducing district school board expenditures or improving district or school center operations. Non-monetary awards shall include, but are not limited to, certificates, plaques, medals, ribbons, and photo-

graphs. The district school board may expend funds for such recognition and awards. No award granted under this paragraph shall exceed \$2,000 or 10 percent of the first year's gross savings, whichever is greater.

(h) Planning and training time for teachers.—The district school board shall adopt rules to make provisions for teachers to have time for lunch, professional planning, and professional development time when they will not be directly responsible for the children if some adult supervision is furnished for the students during such periods.

(i) Comprehensive program of staff development.—The district school board shall establish a comprehensive program of staff development that incorporates school improvement plans pursuant to s. 1001.42 and is aligned with principal leadership training pursuant to s. 1012.986 as a part of the plan.

(2) Adopt policies relating to personnel leave as

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**1012.27 Public school personnel; powers and duties of district school superintendent.**—The district school superintendent is responsible for directing the work of the personnel, subject to the requirements of this chapter, and in addition the district school superintendent shall perform the following:

(1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

(a) Recommend to the district school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an adequate school program in the district.

(b) Recommend minimum qualifications of personnel for these various positions, and nominate in writing persons to fill such positions.

The district school superintendent's recommendations for filling instructional positions at the school level must consider nominations received from school principals of the respective schools. Before transferring a teacher who holds a professional teaching certificate from one school to another, the district school superintendent shall consult with the principal of the receiving school and allow the principal to review the teacher's records and interview the teacher. If, in the judgment of the principal, students would not benefit from the placement, an alternative placement may be sought.

(2) COMPENSATION AND SALARY SCHEDULES.—Prepare and recommend to the district school board for adoption a salary schedule or salary schedules. The district school superintendent must recommend a salary schedule for instructional personnel which bases a portion of each employee's compensation on performance demonstrated under s. 1012.34. In developing the recommended salary schedule, the district school superintendent shall include input from parents, teachers, and representatives of the business community. Beginning with the

follows:

(a) Annual leave.—The district school board may adopt rules that provide for the earning of annual leave by employees, including educational support employees, who are employed for 12 calendar months a year.

(b) Sick leave.—The district school board may adopt rules relating to sick leave, in accordance with the provisions of this chapter.

(c) Illness-in-line-of-duty leave.—The district school board may adopt rules relating to illness-in-the-line-of-duty leave, in accordance with the provisions of this chapter.

(d) Sabbatical leave.—The district school board may adopt rules relating to sabbatical leave, in accordance with the provisions of this chapter.

History.—s. 697, ch. 2002-387; s. 50, ch. 2003-391; s. 56, ch. 2006-74; s. 7, ch. 2007-3; s. 180, ch. 2007-5.

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2007-2008 academic year, the recommended salary schedule for classroom teachers shall be consistent with the district's differentiated-pay policy based upon s. 1012.22.

(3) CONTRACTS AND TERMS OF SERVICE.—Recommend to the district school board terms for contracting with employees and prepare such contracts as are approved.

(4) TRANSFER.—Recommend employees for transfer and transfer any employee during any emergency and report the transfer to the district school board at its next regular meeting.

(5) SUSPENSION AND DISMISSAL.—Suspend members of the instructional staff and other school employees during emergencies for a period extending to and including the day of the next regular or special meeting of the district school board and notify the district school board immediately of such suspension. When authorized to do so, serve notice on the suspended member of the instructional staff of charges made against him or her and of the date of hearing. Recommend employees for dismissal under the terms prescribed herein.

(6) EMPLOYMENT HISTORY CHECKS.—Before employing instructional personnel and school administrators, as defined in s. 1012.01, in any position that requires direct contact with students, conduct employment history checks of each of the personnel's or administrators' previous employers, screen the personnel or administrators through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the district school superintendent shall document efforts to contact the employer.

(7) DIRECT WORK OF EMPLOYEES AND SUPERVISE INSTRUCTION.—Direct or arrange for the proper direction and improvement, under rules of the district school board, of the work of all members

of the instructional staff and other employees of the district school system, supervise or arrange under rules of the district school board for the supervision of instruction in the district, and take such steps as are necessary to bring about continuous improve-

ment.

History.—s. 702, ch. 2002-387; s. 42, ch. 2003-391; s. 58, ch. 2006-74; s. 25, ch. 2008-108.

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**1012.37 Education paraprofessionals.**—A district school board may appoint education paraprofessionals to assist members of the instructional staff in carrying out their duties and responsibilities. An education paraprofessional shall not be required to hold a teaching certificate. An education paraprofessional, while rendering services under

the supervision of a certified teacher, shall be accorded the same protection of laws as that accorded the certified teacher. Paid education paraprofessionals employed by a district school board shall be entitled to the same rights as those accorded noninstructional employees of the district school board.

History.—s. 712, ch. 2002-387.

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**1012.42 Teacher teaching out-of-field.**—

(1) ASSISTANCE.—Each district school board shall adopt and implement a plan to assist any teacher teaching out-of-field, and priority consideration in professional development activities shall be given to teachers who are teaching out-of-field. The district school board shall require that such teachers participate in a certification or staff development program designed to provide the teacher with the competencies required for the assigned duties. The board-approved assistance plan must include duties of administrative personnel and other instructional personnel to provide students with instructional services. Each district school board shall contact its regional workforce board, created pursuant to

s. 445.007, to identify resources that may assist teachers who are teaching out-of-field and who are pursuing certification.

(2) NOTIFICATION REQUIREMENTS.—When a teacher in a district school system is assigned teaching duties in a class dealing with subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise, as determined by district school board policy in the subject area to be taught, the parents of all students in the class shall be notified in writing of such assignment.

History.—s. 717, ch. 2002-387.

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**1012.44 Qualifications for certain persons providing speech-language services.**—The State Board of Education shall adopt rules for speech-language services to school districts that qualify for the sparsity supplement as described in s. 1011.62(7). These services may be provided by baccalaureate degree level persons for a period of 3 years. The

rules shall authorize the delivery of speech-language services by baccalaureate degree level persons under the direction of a certified speech-language pathologist with a master's degree or higher. By October 1, 2003, these rules shall be reviewed by the State Board of Education.

History.—s. 719, ch. 2002-387; s. 14, ch. 2006-27.

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**1012.55 Positions for which certificates required.**—

(1) The State Board of Education shall classify school services, designate the certification subject areas, establish competencies, including the use of technology to enhance student learning, and certification requirements for all school-based personnel, and adopt rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to applicants who meet the standards prescribed by such rules for their class of service. Each person employed or occupying a position as school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the State Board of Education in fulfilling the requirements of the law for the type of service rendered. The Department of Education

shall identify appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses that are funded through the Florida Education Finance Program. However, the state board shall adopt rules authorizing district school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as education paraprofessionals.

(2) Each person who is employed and renders service as an athletic coach in any public school in any district of this state shall hold a valid temporary or professional certificate or an athletic coaching certificate. The athletic coaching certificate may be used for either part-time or full-time positions. The provisions of this subsection do not apply to any athletic coach who voluntarily renders service and who is not employed by any public school district of this state.

(3) Each person employed as a school nurse

shall hold a license to practice nursing in the state, and each person employed as a school physician shall hold a license to practice medicine in the state.

(4) A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the background screening pursuant to s. 1012.32, if he or she meets the following qualifications:

(a) Is retired from active military duty, pursuant to chapter 102 of Title 10 U.S.C.

(b) Satisfies criteria established by the appropriate military service for certification by the service as a junior reserve officer training instructor.

(c) Has an exemplary military record.

If such instructor is assigned instructional duties other than junior reserve officer training, he or she shall hold the certificate required by law and rules of the state board for the type of service rendered.

History.—s. 727, ch. 2002-387; s. 15, ch. 2004-295.

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### 1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. 120.60, the department shall issue within 90 calendar days after the stamped receipted date of the completed application:

(a) If the applicant meets the requirements, a professional certificate covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate;

(b) If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to <sup>1</sup>paragraphs (5)(f) and (7)(b), a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or

(c) If an applicant does not meet the requirements for either certificate, an official statement of status of eligibility.

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2)(d).

(2) ELIGIBILITY CRITERIA.—To be eligible to seek certification, a person must:

(a) Be at least 18 years of age

(b) File an affidavit that the applicant subscribes to and will uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida and that the information provided in the application is true, accurate, and complete. The affidavit shall be by original signature

or by electronic authentication. The affidavit shall include substantially the following warning:

WARNING: Giving false information in order to obtain or renew a Florida educator's certificate is a criminal offense under Florida law. Anyone giving false information on this affidavit is subject to criminal prosecution as well as disciplinary action by the Education Practices Commission.

(c) Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree, or higher. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems. The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegreed areas.

(d) Submit to background screening in accordance with <sup>2</sup>subsection (9). If the background screening indicates a criminal history or if the applicant acknowledges a criminal history, the applicant's records shall be referred to the investigative section in the Department of Education for review and determination of eligibility for certification. If the applicant fails to provide the necessary documentation requested by the department within 90 days after the date of the receipt of the certified mail request, the statement of eligibility and pending application shall become invalid.

(e) Be of good moral character.

(f) Be competent and capable of performing the duties, functions, and responsibilities of an educator.

(g) Demonstrate mastery of general knowledge, pursuant to subsection (3).

(h) Demonstrate mastery of subject area knowledge, pursuant to <sup>3</sup>subsection (4).

(i) Demonstrate mastery of professional preparation and education competence, pursuant to <sup>4</sup>subsection (5).

(3) MASTERY OF GENERAL KNOWLEDGE.—Acceptable means of demonstrating mastery of

general knowledge are:

- (a) Achievement of passing scores on basic skills examination required by state board rule;
  - (b) Achievement of passing scores on the College Level Academic Skills Test earned prior to July 1, 2002;
  - (c) A valid professional standard teaching certificate issued by another state;
  - (d) A valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education; or
  - (e) Documentation of two semesters of successful teaching in a community college, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program.
- (4) ALIGNMENT OF SUBJECT AREAS.—As the Sunshine State Standards are replaced by the Next Generation Sunshine State Standards under s. 1003.41, the State Board of Education shall align the subject area examinations to the Next Generation Sunshine State Standards.
- (5) MASTERY OF SUBJECT AREA KNOWLEDGE.—Acceptable means of demonstrating mastery of subject area knowledge are:
- (a) Achievement of passing scores on subject area examinations required by state board rule, which may include, but need not be limited to, world languages in Arabic, Chinese, Farsi, French, German, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Portuguese, Russian, and Spanish;
  - (b) Completion of a bachelor's degree or higher and verification of the attainment of an oral proficiency interview score above the intermediate level and a written proficiency score above the intermediate level on a test administered by the American Council on the Teaching of Foreign Languages for which there is no Florida-developed examination;
  - (c) Completion of the subject area specialization requirements specified in state board rule and verification of the attainment of the essential subject matter competencies by the district school superintendent of the employing school district or chief administrative officer of the employing state-supported or private school for a subject area for which a subject area examination has not been developed and required by state board rule;
  - (d) Completion of the subject area specialization requirements specified in state board rule for a subject coverage requiring a master's or higher degree and achievement of a passing score on the subject area examination specified in state board rule;
  - (e) A valid professional standard teaching certificate issued by another state; or
  - (f) A valid certificate issued by the National Board for Professional Teaching Standards or a

national educator credentialing board approved by the State Board of Education.

School districts are encouraged to provide mechanisms for those middle school teachers holding only a K-6 teaching certificate to obtain a subject area coverage for middle grades through postsecondary coursework or district add-on certification.

(6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.—Acceptable means of demonstrating mastery of professional preparation and education competence are:

- (a) Completion of an approved teacher preparation program at a postsecondary educational institution within this state and achievement of a passing score on the professional education competency examination required by state board rule;
  - (b) Completion of a teacher preparation program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by state board rule;
  - (c) A valid professional standard teaching certificate issued by another state;
  - (d) A valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education;
  - (e) Documentation of two semesters of successful teaching in a community college, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program;
  - (f) Completion of professional preparation courses as specified in state board rule, successful completion of a professional education competence demonstration program pursuant to <sup>5</sup>paragraph (7) (b), and achievement of a passing score on the professional education competency examination required by state board rule;
  - (g) Successful completion of a professional preparation alternative certification and education competency program, outlined in <sup>6</sup>paragraph (7)(a); or
  - (h) Successful completion of an alternative certification program pursuant to s. 1004.85 and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education.
- (7) TYPES AND TERMS OF CERTIFICATION.—
- (a) The Department of Education shall issue a professional certificate for a period not to exceed 5 years to any applicant who meets all the requirements outlined in subsection (2).
  - (b) The department shall issue a temporary certificate to any applicant who completes the requirements outlined in paragraphs (2)(a)-(f) and

completes the subject area content requirements specified in state board rule or demonstrates mastery of subject area knowledge pursuant to 3subsec- tion (4) and holds an accredited degree or a degree approved by the Department of Education at the level required for the subject area specialization in state board rule.

(c) The department shall issue one nonrenew- able 2-year temporary certificate and one nonrenew- able 5-year professional certificate to a qualified ap- plicant who holds a bachelor's degree in the area of speech-language impairment to allow for completion of a master's degree program in speech-language impairment.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or con- tinue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2)(g). The State Board of Education shall adopt rules to allow the depart- ment to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the require- ment in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commis- sioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

(8) PROFESSIONAL PREPARATION AL- TERNATIVE CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—

(a) The Department of Education shall develop and each school district must provide a cohesive competency-based professional preparation alterna- tive certification program by which members of a school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in this subsec- tion and rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district shall provide a compe- tency-based alternative certification preparation program developed by the Department of Education or developed by the district and approved by the Department of Education. The program shall include the following components:

1. A minimum period of initial preparation prior to assuming duties as the teacher of record.
  2. An option for collaboration between school districts and other supporting agencies for imple- mentation.
  3. Experienced peer mentors
  4. An assessment that provides for:
    - a. An initial evaluation of each educator's com- petencies to determine an appropriate individualized professional development plan.
    - b. A postevaluation to assure successful completion of the program.
  5. Professional education preparation content knowledge that includes, but is not limited to, the following:
    - a. Requirements specified in state board rule for professional preparation.
    - b. The educator-accomplished practices ap- proved by the state board.
    - c. A variety of data indicators for student prog- ress.
    - d. Methodologies, including technology-based methodologies, for teaching subject content that supports the Sunshine State Standards for students.
    - e. Techniques for effective classroom manage- ment.
    - f. Techniques and strategies for operationaliz- ing the role of the teacher in assuring a safe learning environment for students.
    - g. Methodologies for assuring the ability of all students to read, write, and compute.
  6. Required achievement of passing scores on the professional education competency examination required by state board rule.
    - (b) Each school district must and a state sup- ported public school or a private school may develop and maintain a system by which members of the instructional staff may demonstrate mastery of pro- fessional education competence as required by law. Each program must be based on classroom applica- tion and instructional performance and must include a performance evaluation plan for documenting the demonstration of required professional education competence.
- (9) EXAMINATIONS.—
- (a) The Commissioner of Education, with the approval of the State Board of Education, may con- tract for developing, printing, administering, scoring, and appropriate analysis of the written examinations required.
  - (b) The State Board of Education shall, by rule, specify the examination scores that are required for the issuance of a professional certificate and temporary certificate. Such rules must define generic subject area competencies and must establish uni- form evaluation guidelines.
  - (c) The State Board of Education shall desig- nate the certification areas for subject area examina- tions. All required examinations may be taken prior to graduation.

(d) If an applicant takes an examination developed by this state and does not achieve the score necessary for certification, the applicant may review his or her completed examination and bring to the attention of the department any errors that would result in a passing score.

(e) For any examination developed by this state, the Department of Education and the State Board of Education shall maintain confidentiality of the examination, developmental materials, and workpapers, which are exempt from s. 119.07(1).

(f) The examinations used for demonstration of mastery of general knowledge, professional education competence, and subject area knowledge shall be aligned with student standards approved by the state board. The delivery system for these examinations shall provide for overall efficiency, user-friendly application, reasonable accessibility to prospective teachers, and prompt attainment of examination results. The examination of competency for demonstration of subject area knowledge shall be sufficiently comprehensive to assess subject matter expertise for individuals who have acquired subject knowledge either through college credit or by other means.

(g) All examination instruments, including developmental materials and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and from s. 1001.52. Provisions governing access to, maintenance of, and destruction of such instruments and related materials shall be prescribed by rules of the State Board of Education.

**(10) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—**

(a) Each person who seeks certification under this chapter must be fingerprinted and screened in accordance with s. 1012.32 and must not be ineligible for such certification under s. 1012.315. A person who has been screened in accordance with s. 1012.32 by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education, is not required to repeat the screening under this paragraph.

(b) A person may not receive a certificate under this chapter until the person's screening under s. 1012.32 is completed and the results have been submitted to the Department of Education or to the district school superintendent of the school district that employs the person. Every 5 years after obtaining initial certification, each person who is required to be certified under this chapter must be rescreened in accordance with s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal

records checks. If, for any reason after obtaining initial certification, the fingerprints of a person who is required to be certified under this chapter are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal records checks, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the state and federal criminal history checks required by paragraph (a) and this paragraph may be borne by the district school board or the employee. Under penalty of perjury, each person who is certified under this chapter must agree to inform his or her employer within 48 hours if convicted of any disqualifying offense while he or she is employed in a position for which such certification is required.

(c) If it is found under s. 1012.796 that a person who is employed in a position requiring certification under this chapter has not been screened in accordance with s. 1012.32, or is ineligible for such certification under s. 1012.315, the person's certification shall be immediately revoked or suspended and he or she shall be immediately suspended from the position requiring certification.

**(11) NONCITIZENS.—**

(a) The State Board of Education may adopt rules for issuing certificates to noncitizens who are needed to teach and who are legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services. The filing of a written oath to uphold the principles of the Constitution of the United States and the Constitution of the State of Florida, required under paragraph (2)(b), does not apply to individuals assigned to teach on an exchange basis.

(b) A certificate may not be issued to a citizen of a nation controlled by forces that are antagonistic to democratic forms of government, except to an individual who has been legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services.

**(12) DENIAL OF CERTIFICATE.—**

(a) The Department of Education may deny an applicant a certificate if the department possesses evidence satisfactory to it that the applicant has committed an act or acts, or that a situation exists, for which the Education Practices Commission would be authorized to revoke a teaching certificate.

(b) The decision of the department is subject to review by the Education Practices Commission upon the filing of a written request from the applicant within 20 days after receipt of the notice of denial.

**(13) STATE BOARD RULES.—**The State Board of Education shall adopt rules pursuant to ss.

120.536 and 120.54, as necessary to implement this section.

(14) **PRIOR APPLICATION.**—Persons who apply for certification are governed by the law and rules in effect at the time of application for issuance of the initial certificate, provided that continuity of certificates is maintained.

(15) **PERSONNEL RECORDS.**—The Department of Education shall maintain an electronic database that includes, but need not be limited to, the academic preparation, professional training, and teaching experience of each person to whom a certificate is issued. The applicant or the district school superintendent shall furnish the information using a format provided by the department.

(16) **AUTHORITY OF COMMISSIONER.**—The Commissioner of Education may make decisions regarding an applicant's certification under extenuating circumstances not otherwise provided for in statute or by rule. However, an applicant for certification approved by the commissioner must possess the credentials, knowledge, and skills necessary to provide quality education in the public schools.

(17) **COMPARISON OF ROUTES TO A PROFESSIONAL CERTIFICATE.**—Beginning with the 2003-2004 school year, the Department of Education shall conduct a longitudinal study to compare

performance of certificateholders who are employed in Florida school districts. The study shall compare a sampling of educators who have qualified for a professional certificate since July 1, 2002, based on the following:

(a) Graduation from a state-approved teacher preparation program.

(b) Completion of a state-approved professional preparation and education competency program.

(c) A valid standard teaching certificate issued by a state other than Florida.

The department comparisons shall be made to determine if there is any significant difference in the performance of these groups of teachers, as measured by their students' achievement levels and learning gains as measured by s. 1008.22.

History.—s. 728, ch. 2002-387; s. 43, ch. 2003-391; s. 170, ch. 2004-5; s. 16, ch. 2004-295; s. 61, ch. 2006-74; s. 30, ch. 2008-108; s. 25, ch. 2008-235.

<sup>1</sup>Note.—Redesignated as paragraphs (6)(f) and (8)(b) by s. 25, ch. 2008-235.

<sup>2</sup>Note.—Redesignated as subsection (10) by s. 25, ch. 2008-235.

<sup>3</sup>Note.—Redesignated as subsection (5) by s. 25, ch. 2008-235.

<sup>4</sup>Note.—Redesignated as subsection (6) by s. 25, ch. 2008-235.

<sup>5</sup>Note.—Redesignated as paragraph (8)(b) by s. 25, ch. 2008-235.

<sup>6</sup>Note.—Redesignated as paragraph (8)(a) by s. 25, ch. 2008-235.

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### **1012.565 Educator certification for blind and visually impaired students.**

—As a part of the certification process, teachers certified in the education of blind and visually impaired students shall be required to demonstrate competence in reading, writing, and teaching braille pursuant to standards adopted by the Department of Education, comparable to the braille reading and writing standards

adopted by the National Library Service for the Blind and Physically Handicapped, Library of Congress, Washington, D.C. The department shall ensure that teachers of students with visual impairments have access to inservice instruction for the purpose of updating their braille skill competence.

History.—s. 729, ch. 2002-387.

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### **1012.58 Transition to Teaching Program.**

(1) **LEGISLATIVE INTENT.**—The Transition to Teaching Program is created to encourage and assist midcareer professionals who want to become teachers.

(2) **GRANTS; ELIGIBLE APPLICANTS.**—

(a) The Commissioner of Education shall design the process for receiving and evaluating grant proposals in accordance with state and federal appropriations guidelines. Grants may be awarded only to the extent that funding is provided.

(b) The Commissioner of Education shall request proposals from eligible applicants to participate in the program. Each application must:

1. Describe the target group of career-changing professionals upon which the applicant will focus in carrying out its program, including a description of the characteristics of the target group that shows how the knowledge and experience of its members are likely to improve their ability to become effective teachers.

2. Describe how the applicant will identify and recruit program participants.

3. Describe how the applicant will ensure that program participants are placed and teach in eligible school districts in this state.

4. Describe the teacher support services that program participants will receive throughout at least their first year of teaching.

5. Describe how the applicant will collaborate with other institutions, agencies, or organizations to recruit, train, place, and support program participants, including evidence of the commitment of those institutions, agencies, or organizations to the applicant's program.

(c) The Commissioner of Education must require an evaluation process to measure the progress and effectiveness of the program. This evaluation must include:

1. The program's goals and objectives

2. The performance indicators that the applicant will use to measure the program's progress.

3. The outcome measures that will be used to determine the program's effectiveness.

4. An assurance that the applicant will provide the commissioner with information the commissioner

finds necessary to determine the overall effectiveness of the programs.

(3) PROGRAM IMPLEMENTATION; AUTHORIZED EXPENDITURES.—

(a) An applicant shall estimate the funds required for the proposed program. All funds provided for a program must be used as authorized in federal guidelines.

(b) Eligible applicants are encouraged to implement the program using the following components:

1. Recruiting program participants, including informing them of opportunities under the program and putting them in contact with other institutions, agencies, or organizations that will train, place, and support them in the teaching profession.

2. Assisting providers of teacher training to tailor their training to meet the particular needs of professionals who are changing their careers to teaching.

3. Placement activities, including identifying eligible local education agencies with a need for

the skills and characteristics of the newly trained program participants and assisting those participants to obtain employment in those school districts.

4. Postplacement support activities for program participants.

(4) ELIGIBLE PARTICIPANTS; REQUIREMENTS FOR GRANT REPAYMENT.—

(a) Each participant who receives a grant from the program to pursue a teacher preparation program must agree to teach in an eligible school district in this state for at least 3 years after certification. To be eligible, a school district must meet the requirements established in regulations that implement the Omnibus Appropriations Bill of 2000.

(b) The commissioner shall establish conditions under which a participant must repay all or a portion of the training stipend if the participant fails to complete his or her service obligation.

History.—s. 732, ch. 2002-387.

**1012.585 Process for renewal of professional certificates.—**

(1)(a) District school boards shall renew state-issued professional certificates as follows:

1. Each district school board shall renew state-issued professional certificates for individuals who hold a state-issued professional certificate and are employed by that district pursuant to criteria established in subsections (2), (3), and (4) and rules of the State Board of Education.

2. The employing school district may charge the individual an application fee not to exceed the amount charged by the Department of Education for such services, including associated late renewal fees. Each district school board shall transmit monthly to the department a fee in an amount established by the State Board of Education for each renewed certificate. The fee shall not exceed the actual cost for maintenance and operation of the statewide certification database and for the actual costs incurred in printing and mailing such renewed certificates. As defined in current rules of the state board, the department shall contribute a portion of such fee for purposes of funding the Educator Recovery Network established in s. 1012.798. The department shall deposit all funds into the Educational Certification and Service Trust Fund for use as specified in s. 1012.59.

(b) The department shall renew state-issued professional certificates for individuals who are not employed by a district school board of this state pursuant to criteria established in subsections (2), (3), and (4) and requirements specified in rules of the state board.

(2)(a) All professional certificates, except a nonrenewable professional certificate, shall be renewable for successive periods not to exceed 5 years after the date of submission of documenta-

tion of completion of the requirements for renewal provided in subsection (3). Only one renewal may be granted during each 5-year validity period of a professional certificate.

(b) A teacher with national certification from the National Board for Professional Teaching Standards is deemed to meet state renewal requirements for the life of the teacher's national certificate in the subject shown on the national certificate. A complete renewal application and fee shall be submitted. The Commissioner of Education shall notify teachers of the renewal application and fee requirements.

(c) If the renewal application form is not received by the department or by the employing school district before the expiration of the professional certificate, the application form, application fee, and a late fee must be submitted before July 1 of the year following expiration of the certificate in order to renew the professional certificate.

(d) The State Board of Education shall adopt rules to allow a 1-year extension of the validity period of a professional certificate in the event of serious illness, injury, or other extraordinary extenuating circumstances of the applicant. The department shall grant such 1-year extension upon written request by the applicant or by the district school superintendent or the governing authority of a university lab school, state-supported school, or private school that employs the applicant.

(3) For the renewal of a professional certificate, the following requirements must be met:

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s.

1004.04(6)(b) and credits or points that provide training in the area of scientifically researched, knowledge-based reading literacy and computational skills acquisition, exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be applied toward any specialization area. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 1012.98 in the district's approved master plan for inservice educational training, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 1001.452.

(b) In lieu of college course credit or inservice points, the applicant may renew a specialization area by passage of a state board approved subject area test.

(c) If an applicant wishes to retain more than two specialization areas on the certificate, the applicant shall be permitted two successive validity periods for renewal of all specialization areas, but must earn no fewer than 6 college course credit hours or the equivalent in any one validity period.

(d) The State Board of Education shall adopt rules for the expanded use of training for renewal of the professional certificate for educators who are required to complete training in teaching students of limited English proficiency and training in the teaching of reading as follows:

1. A teacher who holds a professional certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages

training and training in the teaching of reading in excess of 6 semester hours during one certificate-validity period toward renewal of the professional certificate during the subsequent validity periods.

2. A teacher who holds a temporary certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages training and training in the teaching of reading toward renewal of the teacher's first professional certificate. Such training must not have been included within the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.

(4) When any person who holds a valid temporary certificate or professional certificate is called into or volunteers for actual wartime service or required peacetime military service training, the certificate shall be renewed for a period of time equal to the time spent in military service if the person makes proper application and presents substantiating evidence to the department or the employing school district regarding such military service.

(5) The State Board of Education shall adopt rules to allow the reinstatement of expired professional certificates. The department may reinstate an expired professional certificate if the certificateholder:

(a) Submits an application for reinstatement of the expired certificate.

(b) Documents completion of 6 college credits during the 5 years immediately preceding reinstatement of the expired certificate, completion of 120 inservice points, or a combination thereof, in an area specified in paragraph (3)(a).

(c) During the 5 years immediately preceding reinstatement of the certificate, achieves a passing score on the subject area test for each subject to be shown on the reinstated certificate.

The requirements of this subsection may not be satisfied by subject area tests or college credits completed for issuance of the certificate that has expired.

History.--s. 733, ch. 2002-387; s. 45, ch. 2003-391; s. 70, ch. 2004-41; s. 19, ch. 2004-295.

**1012.586 Additions or changes to certificates; duplicate certificates.**—A school district may process via a Department of Education website certificates for the following applications of public school employees:

(1) Addition of a subject coverage or endorsement to a valid Florida certificate on the basis of the completion of the appropriate subject area testing requirements of s. 1012.56(5)(a) or the completion of the requirements of an approved school district program or the inservice components for an endorsement.

(2) A reissued certificate to reflect a name change.

(3) A duplicate certificate to replace a lost or damaged certificate.

The employing school district shall charge the employee a fee not to exceed the amount charged by the Department of Education for such services. Each district school board shall retain a portion of the fee as defined in the rules of the State Board of Education. The portion sent to the department shall be used for maintenance of the technology system, the web application, and posting and mailing of the certificate.

History.--s. 46, ch. 2003-391; s. 27, ch. 2008-235.

Florida Statutes Pertaining to Special Programs  
Chapter 39  
Proceedings Relating to Children

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**39.0016 Education of abused, neglected, and abandoned children.—**

(1) As used in this section, the term

(a) “Children known to the department” means children who are found to be dependent or children in shelter care.

(b) “Department” means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or failure by the Legislature to provide adequate funding for the achievement of these goals. This section does not require the expenditure of funds to meet the goals established in this section except funds specifically appropriated for such purpose.

(3) The department shall enter into an agreement with the Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs.

(4) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

(a) A requirement that the department shall:

1. Enroll children known to the department in school. The agreement shall provide for continuing the enrollment of a child known to the department at the same school, if possible, with the goal of avoiding disruption of education.

2. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

3. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child.

4. Notify the school district of the department’s case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

(b) A requirement that the district school board shall:

1. Provide the department with a general listing of the services and information available from the district school board, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.

2. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

3. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

4. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

(c) A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities

Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

1. Referral for screening
2. Sharing of evaluations between the school district and the department where appropriate.
3. Provision of education and related services appropriate for the needs and abilities of the child known to the department.
4. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.
5. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act, for educational purposes for a child known to the department who qualifies as soon as the child is determined to be dependent and without a parent to act for the child. The surrogate parent shall be appointed by the school district without regard to where the child known to the department is placed so that one surrogate parent can follow the education of the child known to the department during his or her entire time in state custody.
6. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

(5) The department shall incorporate an education component into all training programs of the department regarding children known to the department. Such training shall be coordinated with the Department of Education and the local school districts. The department shall offer opportunities for education personnel to participate in such training. Such coordination shall include, but not be limited to,

notice of training sessions, opportunities to purchase training materials, proposals to avoid duplication of services by offering joint training, and incorporation of materials available from the Department of Education and local school districts into the department training when appropriate. The department training components shall include:

(a) Training for surrogate parents to include how an ability to learn of a child known to the department is affected by abuse, abandonment, neglect, and removal from the home.

(b) Training for parents in cases in which reunification is the goal, or for preadoptive parents when adoption is the goal, so that such parents learn how to access the services the child known to the department needs and the importance of their involvement in the education of the child known to the department.

(c) Training for caseworkers and foster parents to include information on the right of the child known to the department to an education, the role of an education in the development and adjustment of a child known to the department, the proper ways to access education and related services for the child known to the department, and the importance and strategies for parental involvement in education for the success of the child known to the department.

(d) Training of caseworkers regarding the services and information available through the Department of Education and local school districts, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.

History.--s. 3, ch. 2004-356.

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### **39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.--**

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

2. Health or mental health professional other than one listed in subparagraph 1.;

3. Practitioner who relies solely on spiritual means for healing;

4. School teacher or other school official or personnel;

5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;

6. Law enforcement officer; or

7. Judge.

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in s. 39.202.

(c) A professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(d) An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

(e) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.1671 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter.

(b) If the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, the report or call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the report or call for investigation, but shall transfer the information on the report to the appropriate state.

(d) If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or

suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(e) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(f) Reports involving a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior shall be made and received by the department.

1. The department shall determine the age of the alleged offender, if known.

2. If the alleged offender is 12 years of age or younger, the central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. If the alleged offender is 13 years of age or older, the central abuse hotline shall immediately electronically transfer the report or call to the appropriate county sheriff's office and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(g) Reports involving surrendered newborn infants as described in s. 383.50 shall be made and received by the department.

1. If the report is of a surrendered newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

2. If the call, fax, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol (IP) address from which the report is received. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the reporter pursuant to s. 39.202.

(i) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The department shall maintain an electronic copy of each fax and web-based report. The recording or electronic copy of each fax and web-based report shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings, the electronic copies of faxes, and web-based reports by hotline staff for quality assurance and training.

(3) Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

(4) The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.

(b) Monitor and evaluate the effectiveness of the department's program for reporting and investi-

gating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.

(c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

(d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.

(f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract

providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

(7) On an ongoing basis, the department's quality assurance program shall review calls, fax reports, and web-based reports to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that

an investigation may be warranted.

**History.**--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 7, ch. 84-226; s. 37, ch. 85-54; s. 68, ch. 86-163; s. 34, ch. 87-238; s. 21, ch. 88-337; s. 33, ch. 89-294; s. 6, ch. 90-50; s. 51, ch. 90-306; s. 7, ch. 91-57; s. 17, ch. 91-71; s. 6, ch. 93-25; s. 59, ch. 94-164; ss. 22, 44, ch. 95-228; s. 9, ch. 95-266; s. 51, ch. 95-267; s. 133, ch. 95-418; s. 1, ch. 96-215; s. 14, ch. 96-268; s. 14, ch. 96-402; s. 271, ch. 96-406; s. 1041, ch. 97-103; s. 43, ch. 97-264; s. 257, ch. 98-166; s. 31, ch. 98-403; s. 4, ch. 99-168; s. 10, ch. 99-193; s. 41, ch. 2000-139; s. 3, ch. 2000-188; s. 1, ch. 2000-217; s. 1, ch. 2001-53; s. 1, ch. 2003-127; s. 7, ch. 2006-86; s. 2, ch. 2008-90; s. 5, ch. 2008-245.

**Note.**--Former ss. 828.041, 827.07(3), (4), (9), (13); s. 415.504.



# Florida Statutes Pertaining to Special Programs

## Chapter 381

### Public Health: General Provisions

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**381.0056 School health services program.—**

(1) This section may be cited as the “School Health Services Act.”

(2) The Legislature finds that health services conducted as a part of the total school health program should be carried out to appraise, protect, and promote the health of students. School health services supplement, rather than replace, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage use of the services of their physicians, dentists, and community health agencies.

(3) When used in or for purposes of this section:

(a) “Emergency health needs” means onsite management and aid for illness or injury pending the student’s return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) “Entity” or “health care entity” means a unit of local government or a political subdivision of the state; a hospital licensed under chapter 395; a health maintenance organization certified under chapter 641; a health insurer authorized under the Florida Insurance Code; a community health center; a migrant health center; a federally qualified health center; an organization that meets the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code; a private industry or business; or a philanthropic foundation that agrees to participate in a public-private partnership with a county health department, local school district, or school in the delivery of school health services, and agrees to the terms and conditions for the delivery of such services as required by this section and as documented in the local school health services plan.

(c) “Invasive screening” means any screening procedure in which the skin or any body orifice is penetrated.

(d) “Physical examination” means a thorough evaluation of the health status of an individual.

(e) “School health services plan” means the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.

(f) “Screening” means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

(4) The Department of Health shall have the responsibility, in cooperation with the Department

of Education, to supervise the administration of the school health services program and perform periodic program reviews. However, the principal of each school shall have immediate supervisory authority over the health personnel working in the school.

(5)(a) Each county health department shall develop, jointly with the district school board and the local school health advisory committee, a school health services plan; and the plan must include, at a minimum, provisions for:

1. Health appraisal
  2. Records review
  3. Nurse assessment
  4. Nutrition assessment
  5. A preventive dental program;
  6. Vision screening;
  7. Hearing screening
  8. Scoliosis screening
  9. Growth and development screening;
  10. Health counseling
  11. Referral and followup of suspected or confirmed health problems by the local county health department;
  12. Meeting emergency health needs in each school;
  13. County health department personnel to assist school personnel in health education curriculum development;
  14. Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;
  15. Consultation with a student’s parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;
  16. Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 1002.22;
  17. Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs; and
  18. Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan.
- (b) Each school health advisory committee must, at a minimum, include members who repre-

sent the eight component areas of the Coordinated School Health model as defined by the Centers for Disease Control and Prevention. School health advisory committees are encouraged to address the eight components of the Coordinated School Health model in the school district's school wellness policy pursuant to s. 1003.453.

(6) A nonpublic school may request to participate in the school health services program. A nonpublic school voluntarily participating in the school health services program shall:

(a) Cooperate with the county health department and district school board in the development of the cooperative health services plan;

(b) Make available adequate physical facilities for health services;

(c) Provide inservice health training to school personnel;

(d) Cooperate with public health personnel in the implementation of the school health services plan;

(e) Be subject to health service program reviews by the Department of Health and the Department of Education;

(f) At the beginning of each school year, provide parents and guardians with information concerning ways that they can help their children to be physically active and to eat healthful foods; and

(g) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the school will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(7) The district school board shall:

(a) Include health services and health education as part of the comprehensive plan for the school district;

(b) Provide inservice health training for school personnel;

(c) Make available adequate physical facilities for health services;

(d) At the beginning of each school year, provide parents and guardians with information concerning ways that they can help their children to be physically active and to eat healthful foods; and

(e) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or

guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(8) The Department of Health, in cooperation with the Department of Education, may adopt rules necessary to implement this section. The rules may include standards and requirements for developing school health services plans, conducting school health screening, meeting emergency health needs, maintaining school health records, and coordinating with education programs for exceptional students.

(9) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

(10) Any health care entity that provides school health services under contract with the department pursuant to a school health services plan developed under this section, and as part of a school nurse services public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of the state solely for the purpose of limiting liability pursuant to s. 768.28(5). The limitations on tort actions contained in s. 768.28(5) shall apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the department. The contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the department. The Legislature intends that insurance be purchased by entities, or by partnerships on behalf of the entity, to cover all liability claims, and under no circumstances shall the state or the department be responsible for payment of any claims or defense costs for claims brought against the entity or its subcontractor for services performed under the contract with the department. This subsection does not preclude consideration by the Legislature for payment by the state of any claims bill involving an entity contracting with the department pursuant to this section.

(11) School health programs funded by health care districts or entities defined in subsection (3) must be supplementary to and consistent with the requirements of this section and ss. 381.0057 and 381.0059.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 9, ch. 74-356; s. 1, ch. 77-174; s. 2, ch. 78-245; s. 15, ch. 79-288; s. 1, ch. 81-18; s. 21, ch. 84-317; s. 50, ch. 85-81; s. 1, ch. 90-344; s. 812, ch. 95-148; s. 101, ch. 97-101; s. 48, ch. 97-237; s. 28, ch. 99-5; s. 1, ch. 99-214; s. 6, ch. 2000-242; s. 5, ch. 2001-53; s. 976, ch. 2002-387; s. 20, ch. 2006-301.

Note.—Former s. 402.32.

# Florida Statutes Pertaining to Special Programs

## Chapter 402

### Health and Human Services; Miscellaneous Provisions; Etc.

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**402.22 Education program for students who reside in residential care facilities operated by the Department of Children and Family Services or the Agency for Persons with Disabilities.—**

(1)(a) The Legislature recognizes that the Department of Children and Family Services and the Agency for Persons with Disabilities have under their residential care students with critical problems of physical impairment, emotional disturbance, mental impairment, and learning impairment.

(b) The Legislature recognizes the vital role of education in the rehabilitation of such students. It is the intent of the Legislature that all such students benefit from educational services and receive such services.

(c) It is the intent of the Legislature that educational services be coordinated with appropriate and existing diagnostic and evaluative, social, followup, and other therapeutic services of the department and agency so that the effect of the total rehabilitation process is maximized.

(d) It is the intent of the Legislature that, as educational programs for students in residential care facilities are implemented by the district school board, educational personnel in the residential care facilities who meet the qualifications for employees of the district school board be employed by the district school board.

(2) District school boards shall establish educational programs for all students ages 5 through 18 under the residential care of the Department of Children and Family Services and the Agency for Persons with Disabilities, and may provide for students below age 3 as provided for in s. 1003.21(1)(e). Funding of such programs shall be pursuant to s. 1011.62.

(3) Notwithstanding any provisions of chapters 39, 393, 394, and 397 to the contrary, the services of the Department of Children and Family Services and the Agency for Persons with Disabilities and those of the Department of Education and district school boards shall be mutually supportive and complementary of each other. The education programs provided by the district school board shall meet the standards prescribed by the State Board of Education and the district school board. Decisions regarding the design and delivery of department or agency treatment or habilitative services shall be made by interdisciplinary teams of professional and paraprofessional staff of which appropriate district school system administrative and instructional personnel shall be invited to be participating members. The requirements for maintenance of confidentiality as

prescribed in chapters 39, 393, 394, and 397 shall be applied to information used by such interdisciplinary teams, and such information shall be exempt from the provisions of ss. 119.07(1) and 286.011.

(4) Students age 18 and under who are under the residential care of the Department of Children and Family Services or the Agency for Persons with Disabilities and who receive an education program shall be calculated as full-time equivalent student membership in the appropriate cost factor as provided for in s. 1011.62(1)(c). Residential care facilities shall include, but not be limited to, developmental disabilities centers and state mental health facilities. All students shall receive their education program from the district school system, and funding shall be allocated through the Florida Education Finance Program for the district school system.

(5) Instructional and special educational services that are provided to clients with mental illness or developmental disabilities of the department's or agency's residential care facilities by local school districts shall not be less than 180 days or 900 hours; however, the 900 hours may be distributed over a 12-month period, unless otherwise stated in rules developed by the State Board of Education, with the concurrence of the department or agency and adopted pursuant to subsection (6).

(6) The State Board of Education, the Department of Children and Family Services, and the Agency for Persons with Disabilities may adopt rules to assist in the orderly transfer of the instruction of students from department or agency residential care facilities to the district school system or to the public education agency and which shall assist in implementing the specific intent as stated in this act.

(7) Notwithstanding the provisions of s. 1001.42(4)(n), the educational program at the Marianna Sunland Center in Jackson County shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public educational agencies. The annual state allocation to any such agency shall be computed pursuant to s. 1011.62(1), (2), and (6) and allocated in the amount that would have been provided the local school district in which the residential facility is located.

History.—ss. 1, 2, ch. 71-350; s. 4, ch. 79-184; s. 1, ch. 80-143; s. 4, ch. 80-240; ss. 1, 2, ch. 81-272; s. 2, ch. 82-153; s. 57, ch. 83-218; s. 16, ch. 85-109; s. 24, ch. 89-308; s. 1, ch. 90-7; ss. 7, 9, ch. 90-208; s. 26, ch. 93-39; s. 78, ch. 95-143; s. 238, ch. 96-406; s. 66, ch. 97-190; s. 5, ch. 98-186; s. 988, ch. 2002-387; s. 11, ch. 2006-27; s. 49, ch. 2006-227; s. 14, ch. 2008-244.

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**402.45 Community resource mother or father program.—**

(1) The Department of Health shall establish a community resource mother or father program pursuant to this section within the resources allocated. The purpose of the program shall be to demonstrate the benefits of utilizing community resource mothers or fathers to improve maternal and child health outcomes; to enhance parenting and child development, including the educational enrichment of children through the promotion of increased awareness by mothers and fathers of their own strengths and potentials as home educators; to support family integrity through the provision of social support and parent education and training; to provide assistance to children at high risk for delinquent behavior and their parents; and to provide assistance to high-risk pregnant women and to high-risk or handicapped infants, toddlers, and preschool children and their parents.

(2) The Department of Health shall contract with county health departments, other public agencies, or not-for-profit agencies, or any combination thereof, to carry out the programs utilizing community resource mother or father services.

(3) A community resource mother or father shall be an individual who by residence and resources is able to identify with the target population, and meets the following minimum criteria:

- (a) Is at least 25 years of age
- (b) Is a mother or father.

(c) Is a recipient of temporary cash assistance or a person with an income below the federal poverty level, or has an income equivalent to community clients.

(4) The Department of Health may, in addition to the criteria in subsection (3), require other criteria to contract for community resource mother or father services.

(5) The Department of Health shall develop the program guidelines.

(6) Individuals under contract to provide community resource mother or father services shall participate in preservice and ongoing training as determined by the Department of Health in consultation with the State Coordinating Council for School Readiness Programs. A community resource mother or father shall not be assigned a client caseload until all preservice training requirements are completed.

(7) The community resource mother or father shall be assigned a caseload based on the criteria established by the Department of Health, which criteria consider geographic distance, severity of problems on the caseload, and skills needed to address the problems. A plan shall be developed for each case that includes, at a minimum:

(a) A statement of the high-risk pregnant woman's problems or high-risk child's problems and needs.

(b) The goals and objectives of the intervention program.

(c) The services to be provided by the community resource mother or father.

(d) Community resources to be used

(e) Schedule of visits between community resource mothers or fathers and clients.

(8) Supervision of the community resource mother or father shall be the responsibility of the county health department or other public agency or nonprofit agency under contract to the department, whichever is appropriate, and may be delegated to a community agency under contract.

(9) The department may adopt rules necessary to implement this section.

History.—s. 9, ch. 89-379; s. 2, ch. 90-192; s. 5, ch. 91-429; s. 123, ch. 94-209; s. 84, ch. 96-175; s. 192, ch. 97-101; s. 35, ch. 99-5; s. 151, ch. 99-8; s. 90, ch. 2000-165; s. 20, ch. 2000-337; s. 26, ch. 2001-170; s. 63, ch. 2002-1.

# Florida Statutes Pertaining to Special Programs

## Chapter 409

### Social and Economic Assistance

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#### **409.9071 Medicaid provider agreements for school districts certifying state match.—**

(1) The agency shall reimburse school-based services as provided in former s. 236.0812 pursuant to the rehabilitative services option provided under 42 U.S.C. s. 1396d(a)(13). For purposes of this section, billing agent consulting services shall be considered billing agent services, as that term is used in s. 409.913(10), and, as such, payments to such persons shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. This provision shall not restrict privatization of Medicaid school-based services. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures and shall allow for certification of state and local education funds which have been provided for school-based services as specified in s. 1011.70 and authorized by a physician's order where required by federal Medicaid law. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and part B or part H of the Individuals with Disabilities Education Act (IDEA), or the exceptional student education program, or who have an individualized educational plan.

(2) School districts that wish to enroll as Medicaid providers and that certify state match in order to receive federal Medicaid reimbursements for services, pursuant to subsection (1), shall agree to:

(a) Verify Medicaid eligibility. The agency and the Department of Education shall work cooperatively to facilitate local school districts' verification of Medicaid eligibility.

(b) Develop and maintain the financial and individual education plan records needed to document the appropriate use of state and federal Medicaid funds.

(c) Comply with all state and federal Medicaid laws, rules, regulations, and policies, including, but not limited to, those related to the confidentiality of

records and freedom of choice of providers.

(d) Be responsible for reimbursing the cost of any state or federal disallowance that results from failure to comply with state or federal Medicaid laws, rules, or regulations.

(3) State and local education dollars certified as state Medicaid match may be capped based on the maximum amount of federal participation budgeted for this purpose. Unless otherwise specifically provided for in the General Appropriations Act, certification of such funds shall be reduced proportionately to other voluntary Medicaid programs if a cap is established by the federal Medicaid agency that reduces federal Medicaid funding.

(4) Within 90 days after a school district applies to enroll as a Medicaid provider under the certified match program, the agency may conduct a review to ensure that the school district has the capability to comply with the requirements in subsection (2). A finding by the agency that a school district has the capability to comply with the requirements in subsection (2) shall not relieve a school district of its responsibility for correcting any deficiencies or for reimbursing the cost of the state or federal disallowances identified pursuant to any subsequent state or federal audits.

(5) The agency shall develop a reimbursement schedule specific to school-based services which is based on the federal rehabilitative services option.

(6) Retroactive reimbursements for services as specified in former s. 236.0812 as of July 1, 1996, including reimbursement for the 1995-1996 and 1996-1997 school years, are subject to federal approval.

(7) The agency's and school districts' confidentiality is waived. They shall provide any information or documents relating to this section to the Medicaid Fraud Control Unit in the Department of Legal Affairs, upon request pursuant to its authority under s. 409.920.

History.—s. 2, ch. 95-336; s. 5, ch. 96-199; s. 3, ch. 96-294; s. 2, ch. 97-168; ss. 13, 18, ch. 97-263; s. 5, ch. 2000-163; ss. 994, 995, ch. 2002-387; s. 20, ch. 2004-344; s. 67, ch. 2005-2.

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#### **409.908 Reimbursement of Medicaid providers.—**

Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the

agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall

also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(1) Reimbursement to hospitals licensed under part I of chapter 395 must be made prospectively or on the basis of negotiation.

(a) Reimbursement for inpatient care is limited as provided for in s. 409.905(5), except for:

1. The raising of rate reimbursement caps, excluding rural hospitals.
2. Recognition of the costs of graduate medical education.
3. Other methodologies recognized in the General Appropriations Act.

During the years funds are transferred from the Department of Health, any reimbursement supported by such funds shall be subject to certification by the Department of Health that the hospital has complied with s. 381.0403. The agency is authorized to receive funds from state entities, including, but not limited to, the Department of Health, local governments, and other local political subdivisions, for the purpose of making special exception payments, including federal matching funds, through the Medicaid inpatient reimbursement methodologies. Funds received from state entities or local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner. The agency may certify all local governmental funds used as state match under Title XIX of the Social Security Act, to the extent that the identified local health care provider that is otherwise entitled to and is contracted to receive such local funds is the benefactor under the state's Medicaid program as determined under the General Appropriations Act and pursuant to an agreement between the Agency for Health Care Administration and the local governmental entity. The local governmental entity shall use a certification form prescribed by the agency. At a minimum, the certification form shall identify the amount being certified and describe the relationship between the certifying local governmental entity and the local health care provider. The agency shall prepare an annual statement of impact which documents the specific activities undertaken during the previous fiscal year pursuant to this paragraph, to be submitted to the Legislature no later than January 1, annually.

(b) Reimbursement for hospital outpatient care is limited to \$1,500 per state fiscal year per recipient,

except for:

1. Such care provided to a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

2. Renal dialysis services

3. Other exceptions made by the agency.

The agency is authorized to receive funds from state entities, including, but not limited to, the Department of Health, the Board of Governors of the State University System, local governments, and other local political subdivisions, for the purpose of making payments, including federal matching funds, through the Medicaid outpatient reimbursement methodologies. Funds received from state entities and local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner.

(c) Hospitals that provide services to a disproportionate share of low-income Medicaid recipients, or that participate in the regional perinatal intensive care center program under chapter 383, or that participate in the statutory teaching hospital disproportionate share program may receive additional reimbursement. The total amount of payment for disproportionate share hospitals shall be fixed by the General Appropriations Act. The computation of these payments must be made in compliance with all federal regulations and the methodologies described in ss. 409.911, 409.9112, and 409.9113.

(d) The agency is authorized to limit inflationary increases for outpatient hospital services as directed by the General Appropriations Act.

(2)(a)1. Reimbursement to nursing homes licensed under part II of chapter 400 and state-owned-and-operated intermediate care facilities for the developmentally disabled licensed under part VIII of chapter 400 must be made prospectively.

2. Unless otherwise limited or directed in the General Appropriations Act, reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment, and reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement shall be determined by averaging the nursing home payments in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the agency. Medicaid reimbursement may be extended by the agency beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative

services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent may be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider target.

2. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, minimum data set, and care plan coordinators, staff development, and staffing coordinator.

3. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

4. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

5. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing

appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

(a) Advanced registered nurse practitioner services.

(b) Birth center services.

(c) Chiropractic services

(d) Community mental health services

(e) Dental services, including oral and maxillo-facial surgery.

(f) Durable medical equipment

(g) Hearing services

(h) Occupational therapy for Medicaid recipients under age 21.

(i) Optometric services

(j) Orthodontic services.

(k) Personal care for Medicaid recipients under age 21.

(l) Physical therapy for Medicaid recipients under age 21.

(m) Physician assistant services

(n) Podiatric services.

(o) Portable X-ray services

(p) Private-duty nursing for Medicaid recipients under age 21.

(q) Registered nurse first assistant services

(r) Respiratory therapy for Medicaid recipients under age 21.

(s) Speech therapy for Medicaid recipients under age 21.

(t) Visual services.

(4) Subject to any limitations or directions provided for in the General Appropriations Act, alternative health plans, health maintenance organizations,

and prepaid health plans shall be reimbursed a fixed, prepaid amount negotiated, or competitively bid pursuant to s. 287.057, by the agency and prospectively paid to the provider monthly for each Medicaid recipient enrolled. The amount may not exceed the average amount the agency determines it would have paid, based on claims experience, for recipients in the same or similar category of eligibility. The agency shall calculate capitation rates on a regional basis and, beginning September 1, 1995, shall include age-band differentials in such calculations.

(5) An ambulatory surgical center shall be reimbursed the lesser of the amount billed by the provider or the Medicare-established allowable amount for the facility.

(6) A provider of early and periodic screening, diagnosis, and treatment services to Medicaid recipients who are children under age 21 shall be reimbursed using an all-inclusive rate stipulated in a fee schedule established by the agency. A provider of the visual, dental, and hearing components of such services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(7) A provider of family planning services shall be reimbursed the lesser of the amount billed by the provider or an all-inclusive amount per type of visit for physicians and advanced registered nurse practitioners, as established by the agency in a fee schedule.

(8) A provider of home-based or community-based services rendered pursuant to a federally approved waiver shall be reimbursed based on an established or negotiated rate for each service. These rates shall be established according to an analysis of the expenditure history and prospective budget developed by each contract provider participating in the waiver program, or under any other methodology adopted by the agency and approved by the Federal Government in accordance with the waiver. Privately owned and operated community-based residential facilities which meet agency requirements and which formerly received Medicaid reimbursement for the optional intermediate care facility for the mentally retarded service may participate in the developmental services waiver as part of a home-and-community-based continuum of care for Medicaid recipients who receive waiver services.

(9) A provider of home health care services or of medical supplies and appliances shall be reimbursed on the basis of competitive bidding or for the lesser of the amount billed by the provider or the agency's established maximum allowable amount, except that, in the case of the rental of durable medical equipment, the total rental payments may not exceed the purchase price of the equipment over its expected useful life or the agency's established maximum allowable amount, whichever amount is less.

(10) A hospice shall be reimbursed through a prospective system for each Medicaid hospice patient at Medicaid rates using the methodology established for hospice reimbursement pursuant to Title XVIII of the federal Social Security Act.

(11) A provider of independent laboratory services shall be reimbursed on the basis of competitive bidding or for the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency.

(12)(a) A physician shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(b) The agency shall adopt a fee schedule, subject to any limitations or directions provided for in the General Appropriations Act, based on a resource-based relative value scale for pricing Medicaid physician services. Under this fee schedule, physicians shall be paid a dollar amount for each service based on the average resources required to provide the service, including, but not limited to, estimates of average physician time and effort, practice expense, and the costs of professional liability insurance. The fee schedule shall provide increased reimbursement for preventive and primary care services and lowered reimbursement for specialty services by using at least two conversion factors, one for cognitive services and another for procedural services. The fee schedule shall not increase total Medicaid physician expenditures unless moneys are available, and shall be phased in over a 2-year period beginning on July 1, 1994. The Agency for Health Care Administration shall seek the advice of a 16-member advisory panel in formulating and adopting the fee schedule. The panel shall consist of Medicaid physicians licensed under chapters 458 and 459 and shall be composed of 50 percent primary care physicians and 50 percent specialty care physicians.

(c) Notwithstanding paragraph (b), reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least \$1,500 per delivery for a pregnant woman with low medical risk and at least \$2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in Regional Perinatal Intensive Care Centers designated pursuant to chapter 383, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by the agency. Nurse midwives licensed under part I of chapter 464 or midwives licensed under chapter 467 shall be reimbursed at no less than 80 percent of the low medical risk fee. The agency shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman and shall not pay more based solely on the fact that a

caesarean section was performed, rather than a vaginal delivery. The agency shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed. The Department of Health shall adopt rules for appropriate insurance coverage for midwives licensed under chapter 467. Prior to the issuance and renewal of an active license, or reactivation of an inactive license for midwives licensed under chapter 467, such licensees shall submit proof of coverage with each application.

(13) Medicare premiums for persons eligible for both Medicare and Medicaid coverage shall be paid at the rates established by Title XVIII of the Social Security Act. For Medicare services rendered to Medicaid-eligible persons, Medicaid shall pay Medicare deductibles and coinsurance as follows:

(a) Medicaid's financial obligation for deductibles and coinsurance payments shall be based on Medicare allowable fees, not on a provider's billed charges.

(b) Medicaid will pay no portion of Medicare deductibles and coinsurance when payment that Medicare has made for the service equals or exceeds what Medicaid would have paid if it had been the sole payor. The combined payment of Medicare and Medicaid shall not exceed the amount Medicaid would have paid had it been the sole payor. The Legislature finds that there has been confusion regarding the reimbursement for services rendered to dually eligible Medicare beneficiaries. Accordingly, the Legislature clarifies that it has always been the intent of the Legislature before and after 1991 that, in reimbursing in accordance with fees established by Title XVIII for premiums, deductibles, and coinsurance for Medicare services rendered by physicians to Medicaid eligible persons, physicians be reimbursed at the lesser of the amount billed by the physician or the Medicaid maximum allowable fee established by the Agency for Health Care Administration, as is permitted by federal law. It has never been the intent of the Legislature with regard to such services rendered by physicians that Medicaid be required to provide any payment for deductibles, coinsurance, or copayments for Medicare cost sharing, or any expenses incurred relating thereto, in excess of the payment amount provided for under the State Medicaid plan for such service. This payment methodology is applicable even in those situations in which the payment for Medicare cost sharing for a qualified Medicare beneficiary with respect to an item or service is reduced or eliminated. This expression of the Legislature is in clarification of existing law and shall apply to payment for, and with respect to provider agreements with respect to, items or services furnished on or after the effective date of this act. This paragraph applies to payment by Medicaid for items and services furnished before the effective date of this act if such payment is the subject of a lawsuit that is based on the provisions of

this section, and that is pending as of, or is initiated after, the effective date of this act.

(c) Notwithstanding paragraphs (a) and (b)

1. Medicaid payments for Nursing Home Medicare part A coinsurance are limited to the Medicaid nursing home per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. The Medicaid per diem rate shall be the rate in effect for the dates of service of the cross-over claims and may not be subsequently adjusted due to subsequent per diem rate adjustments.

2. Medicaid shall pay all deductibles and coinsurance for Medicare-eligible recipients receiving freestanding end stage renal dialysis center services.

3. Medicaid payments for general and specialty hospital inpatient services are limited to the Medicare deductible and coinsurance per spell of illness. Medicaid payments for hospital Medicare Part A coinsurance shall be limited to the Medicaid hospital per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. Medicaid payments for coinsurance shall be limited to the Medicaid per diem rate in effect for the dates of service of the crossover claims and may not be subsequently adjusted due to subsequent per diem adjustments.

4. Medicaid shall pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to chapter 401.

5. Medicaid shall pay all deductibles and coinsurance for portable X-ray Medicare Part B services provided in a nursing home.

(14) A provider of prescribed drugs shall be reimbursed the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency, plus a dispensing fee. The Medicaid maximum allowable fee for ingredient cost will be based on the lower of: average wholesale price (AWP) minus 16.4 percent, wholesaler acquisition cost (WAC) plus 4.75 percent, the federal upper limit (FUL), the state maximum allowable cost (SMAC), or the usual and customary (UAC) charge billed by the provider. Medicaid providers are required to dispense generic drugs if available at lower cost and the agency has not determined that the branded product is more cost-effective, unless the prescriber has requested and received approval to require the branded product. The agency is directed to implement a variable dispensing fee for payments for prescribed medicines while ensuring continued access for Medicaid recipients. The variable dispensing fee may be based upon, but not limited to, either or both the volume of prescriptions dispensed by a specific pharmacy provider, the volume of prescriptions dispensed to an individual recipient, and dispensing of preferred-drug-list products. The agency may increase the pharmacy dispensing fee authorized by

statute and in the annual General Appropriations Act by \$0.50 for the dispensing of a Medicaid preferred-drug-list product and reduce the pharmacy dispensing fee by \$0.50 for the dispensing of a Medicaid product that is not included on the preferred drug list. The agency may establish a supplemental pharmaceutical dispensing fee to be paid to providers returning unused unit-dose packaged medications to stock and crediting the Medicaid program for the ingredient cost of those medications if the ingredient costs to be credited exceed the value of the supplemental dispensing fee. The agency is authorized to limit reimbursement for prescribed medicine in order to comply with any limitations or directions provided for in the General Appropriations Act, which may include implementing a prospective or concurrent utilization review program.

(15) A provider of primary care case management services rendered pursuant to a federally approved waiver shall be reimbursed by payment of a fixed, prepaid monthly sum for each Medicaid recipient enrolled with the provider.

(16) A provider of rural health clinic services and federally qualified health center services shall be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations.

(17) A provider of targeted case management services shall be reimbursed pursuant to an established fee, except where the Federal Government requires a public provider be reimbursed on the basis of average actual costs.

(18) Unless otherwise provided for in the General Appropriations Act, a provider of transportation services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency, except when the agency has entered into a direct contract with the provider, or with a community transportation coordinator, for the provision of an all-inclusive service, or when services are provided pursuant to an agreement negotiated between the agency and the provider. The agency, as provided for in s. 427.0135, shall purchase transportation services through the community coordinated transportation system, if available, unless the agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission. The agency may then contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards. Nothing in this subsection shall be construed to limit or preclude the agency from contracting for services using a prepaid capitation rate or from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, prior authorization, competitive bidding, increased use of mass transit, or any other mechanism that the agency considers efficient and effective for the purchase of services

on behalf of Medicaid clients, including implementing a transportation eligibility process. The agency shall not be required to contract with any community transportation coordinator or transportation operator that has been determined by the agency, the Department of Legal Affairs Medicaid Fraud Control Unit, or any other state or federal agency to have engaged in any abusive or fraudulent billing activities. The agency is authorized to competitively procure transportation services or make other changes necessary to secure approval of federal waivers needed to permit federal financing of Medicaid transportation services at the service matching rate rather than the administrative matching rate. Notwithstanding chapter 427, the agency is authorized to continue contracting for Medicaid nonemergency transportation services in agency service area 11 with managed care plans that were under contract for those services before July 1, 2004.

(19) County health department services shall be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations under the authority of 42 C.F.R. s. 431.615.

(20) A renal dialysis facility that provides dialysis services under s. 409.906(9) must be reimbursed the lesser of the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less.

(21) The agency shall reimburse school districts which certify the state match pursuant to ss. 409.9071 and 1011.70 for the federal portion of the school district's allowable costs to deliver the services, based on the reimbursement schedule. The school district shall determine the costs for delivering services as authorized in ss. 409.9071 and 1011.70 for which the state match will be certified. Reimbursement of school-based providers is contingent on such providers being enrolled as Medicaid providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, are eligible for reimbursement for services that are provided on school premises. Any employee of the school district who has been fingerprinted and has received a criminal background check in accordance with Department of Education rules and guidelines shall be exempt from any agency requirements relating to criminal background checks.

(22) The agency shall request and implement Medicaid waivers from the federal Health Care Financing Administration to advance and treat a portion of the Medicaid nursing home per diem as capital for creating and operating a risk-retention group for self-insurance purposes, consistent with federal and state laws and rules.

(23)(a) The agency shall establish rates at a level that ensures no increase in statewide expenditures resulting from a change in unit costs for 2 fiscal years effective July 1, 2009. Reimbursement rates for the 2 fiscal years shall be as provided in the General Appropriations Act.

(b) This subsection applies to the following provider types:

1. Inpatient hospitals
2. Outpatient hospitals
3. Nursing homes
4. County health departments
5. Community intermediate care facilities for the developmentally disabled.
6. Prepaid health plans.

The agency shall apply the effect of this subsection to the reimbursement rates for nursing home diversion programs.

(c) The agency shall create a workgroup on hospital reimbursement, a workgroup on nursing facility reimbursement, and a workgroup on managed care plan payment. The workgroups shall evaluate

alternative reimbursement and payment methodologies for hospitals, nursing facilities, and managed care plans, including prospective payment methodologies for hospitals and nursing facilities. The nursing facility workgroup shall also consider price-based methodologies for indirect care and acuity adjustments for direct care. The agency shall submit a report on the evaluated alternative reimbursement methodologies to the relevant committees of the Senate and the House of Representatives by November 1, 2009.

(d) This subsection expires June 30, 2011.

History.--s. 37, ch. 91-282; s. 17, ch. 92-179; s. 1, ch. 92-311; s. 47, ch. 93-129; s. 28, ch. 93-211; s. 2, ch. 94-299; s. 4, ch. 94-317; s. 2, ch. 95-291; s. 3, ch. 95-336; s. 5, ch. 95-393; s. 6, ch. 96-417; s. 3, ch. 97-168; s. 65, ch. 97-237; s. 1, ch. 97-243; s. 11, ch. 97-260; ss. 14, 19, ch. 97-263; s. 4, ch. 97-309; ss. 13, 38, ch. 98-46; s. 236, ch. 98-166; s. 28, ch. 98-191; ss. 17, 30, ch. 2000-163; s. 19, ch. 2000-209; s. 54, ch. 2000-256; s. 110, ch. 2000-318; s. 49, ch. 2001-45; s. 51, ch. 2001-62; s. 5, ch. 2001-104; s. 4, ch. 2001-222; s. 7, ch. 2001-377; s. 16, ch. 2002-223; s. 996, ch. 2002-387; s. 22, ch. 2002-400; s. 11, ch. 2003-405; s. 53, ch. 2004-5; s. 12, ch. 2004-270; s. 21, ch. 2004-344; s. 68, ch. 2005-2; s. 9, ch. 2005-60; s. 17, ch. 2005-133; s. 13, ch. 2006-28; s. 53, ch. 2006-227; s. 96, ch. 2007-5; s. 50, ch. 2007-217; s. 3, ch. 2007-331; s. 5, ch. 2008-143; s. 1, ch. 2008-203.



Florida Statutes Pertaining to Special Programs  
Chapter 411:  
Handicap or High-Risk Condition Prevention  
and Early Childhood Assistance  
Part I, General Provisions

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**411.01 School readiness programs; early learning coalitions.—**

(1) SHORT TITLE.—This section may be cited as the “School Readiness Act.”

(2) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that school readiness programs increase children’s chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that the programs be developmentally appropriate, research-based, involve parents as their child’s first teacher, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Each school readiness program shall provide the elements necessary to prepare at-risk children for school, including health screening and referral and an appropriate educational program.

(b) It is the intent of the Legislature that school readiness programs be operated on a full-day, year-round basis to the maximum extent possible to enable parents to work and become financially self-sufficient.

(c) It is the intent of the Legislature that school readiness programs not exist as isolated programs, but build upon existing services and work in cooperation with other programs for young children, and that school readiness programs be coordinated to achieve full effectiveness.

(d) It is the intent of the Legislature that the administrative staff at the state level for school readiness programs be kept to the minimum necessary to administer the duties of the Agency for Workforce Innovation, as the school readiness programs are to be regionally designed, operated, and managed, with the Agency for Workforce Innovation developing school readiness program performance standards and outcome measures and approving and reviewing early learning coalitions and school readiness plans.

(e) It is the intent of the Legislature that appropriations for combined school readiness programs shall not be less than the programs would receive in any fiscal year on an uncombined basis.

(f) It is the intent of the Legislature that the school readiness program coordinate and operate in conjunction with the district school systems. However, it is also the intent of the Legislature that the school readiness program not be construed as part of the system of free public schools but rather as a separate program for children under the age of kindergarten eligibility, funded separately from the

system of free public schools, utilizing a mandatory sliding fee scale, and providing an integrated and seamless system of school readiness services for the state’s birth-to-kindergarten population.

(g) It is the intent of the Legislature that the federal child care income tax credit be preserved for school readiness programs.

(h) It is the intent of the Legislature that school readiness services shall be an integrated and seamless system of services with a developmentally appropriate education component for the state’s eligible birth-to-kindergarten population described in subsection (6) and shall not be construed as part of the seamless K-20 education system.

(3) PARENTAL PARTICIPATION IN SCHOOL READINESS PROGRAMS.—This section does not:

(a) Relieve parents and guardians of their own obligations to prepare their children for school; or

(b) Create any obligation to provide publicly funded school readiness programs or services beyond those authorized by the Legislature.

(4) AGENCY FOR WORKFORCE INNOVATION.—

(a) The Agency for Workforce Innovation shall administer school readiness programs at the state level and shall coordinate the early learning coalitions in providing school readiness services on a full-day, full-year, full-choice basis to the extent possible in order to enable parents to work and be financially self-sufficient.

(b) The Agency for Workforce Innovation shall:

1. Coordinate the birth-to-kindergarten services for children who are eligible under subsection (6) and the programmatic, administrative, and fiscal standards under this section for all public providers of school readiness programs.

2. Continue to provide unified leadership for school readiness through early learning coalitions.

3. Focus on improving the educational quality of all publicly funded school readiness programs.

(c) For purposes of administration of the federal Child Care and Development Fund, 45 C.F.R. parts 98 and 99, the Agency for Workforce Innovation may be designated by the Governor as the lead agency and, if so designated, shall comply with the lead agency responsibilities under federal law.

(d) The Agency for Workforce Innovation shall:

1. Be responsible for the prudent use of all public and private funds in accordance with all legal and contractual requirements.

2. Provide final approval and periodic review of early learning coalitions and school readiness plans.

3. Provide leadership for the enhancement

of school readiness in this state by aggressively establishing a unified approach to the state's efforts toward enhancement of school readiness. In support of this effort, the Agency for Workforce Innovation may develop and implement specific strategies that address the state's school readiness programs.

4. Safeguard the effective use of federal, state, local, and private resources to achieve the highest possible level of school readiness for the children in this state.

5. Provide technical assistance to early learning coalitions.

6. Assess gaps in service

7. Provide technical assistance to counties that form a multicounty region served by an early learning coalition.

8. Develop and adopt performance standards and outcome measures for school readiness programs. The performance standards must address the age-appropriate progress of children in the development of the school readiness skills required under paragraph (j). The performance standards for children from birth to 3 years of age in school readiness programs must be integrated with the performance standards adopted by the Department of Education for children in the Voluntary Prekindergarten Education Program under s. 1002.67.

(e) The Agency for Workforce Innovation may adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon the agency, including, but not limited to, rules governing the preparation and implementation of the school readiness system, the collection of data, the approval of early learning coalitions and school readiness plans, the provision of a method whereby an early learning coalition may serve two or more counties, the award of incentives to early learning coalitions, and the issuance of waivers.

(f) The Agency for Workforce Innovation shall have all powers necessary to administer this section, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for purposes of this section.

(g) Except as provided by law, the Agency for Workforce Innovation may not impose requirements on a child care or early childhood education provider that does not deliver services under a school readiness program or receive state or federal funds under this section.

(h) The Agency for Workforce Innovation shall have a budget for the school readiness system, which shall be financed through an annual appropriation made for purposes of this section in the General Appropriations Act.

(i) The Agency for Workforce Innovation shall coordinate the efforts toward school readiness in this state and provide independent policy analyses and

recommendations to the Governor, the State Board of Education, and the Legislature.

(j) The Agency for Workforce Innovation shall require that each early learning coalition's school readiness program must, at a minimum, enhance the age-appropriate progress of each child in the development of the following school readiness skills:

1. Compliance with rules, limitations, and routines.
2. Ability to perform tasks
3. Interactions with adults.
4. Interactions with peers
5. Ability to cope with challenges
6. Self-help skills
7. Ability to express the child's needs
8. Verbal communication skills.
9. Problem-solving skills.
10. Following of verbal directions
11. Demonstration of curiosity, persistence, and exploratory behavior.
12. Interest in books and other printed materials.
13. Paying attention to stories
14. Participation in art and music activities
15. Ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships.

The Agency for Workforce Innovation shall also require that, before a child is enrolled in an early learning coalition's school readiness program, the coalition must ensure that information is obtained by the coalition or the school readiness provider regarding the child's immunizations, physical development, and other health requirements as necessary, including appropriate vision and hearing screening and examinations.

(k) The Agency for Workforce Innovation shall conduct studies and planning activities related to the overall improvement and effectiveness of the outcome measures adopted by the agency for school readiness programs.

(l) The Agency for Workforce Innovation shall monitor and evaluate the performance of each early learning coalition in administering the school readiness program, implementing the coalition's school readiness plan, and administering the Voluntary Prekindergarten Education Program. These monitoring and performance evaluations must include, at a minimum, onsite monitoring of each coalition's finances, management, operations, and programs.

(m) The Agency for Workforce Innovation shall identify best practices of early learning coalitions in order to improve the outcomes of school readiness programs.

(n) The Agency for Workforce Innovation shall submit an annual report of its activities conducted under this section to the Governor, the executive director of the Florida Healthy Kids Corporation, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both

houses of the Legislature. In addition, the Agency for Workforce Innovation's reports and recommendations shall be made available to the State Board of Education, the Florida Early Learning Advisory Council, other appropriate state agencies and entities, district school boards, central agencies, and county health departments. The annual report must provide an analysis of school readiness activities across the state, including the number of children who were served in the programs.

(o) The Agency for Workforce Innovation shall work with the early learning coalitions to increase parents' training for and involvement in their children's preschool education and to provide family literacy activities and programs.

(5) CREATION OF EARLY LEARNING COALITIONS.—

(a) Early learning coalitions.

1. The Agency for Workforce Innovation shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Agency for Workforce Innovation may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:

a. Permit 30 or fewer coalitions to be established; and

b. Require each coalition to serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.

The Agency for Workforce Innovation shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. Each early learning coalition must comply with the merger procedures and shall be organized in accordance with this subparagraph by April 1, 2005. By June 30, 2005, each coalition must complete the transfer of powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds to the successor coalition, if applicable.

2. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 1., the coalition must merge with another county to form a multicounty coalition. However, the Agency for Workforce Innovation may authorize an early learning coalition to serve fewer children than the minimum number established under subparagraph 1., if:

a. The coalition demonstrates to the Agency for Workforce Innovation that merging with another county or multicounty region contiguous to the coalition would cause an extreme hardship on the coalition;

b. The Agency for Workforce Innovation has determined during the most recent annual review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(l), that the coalition has substantially implemented its plan and substantially met the performance standards and outcome measures adopted by the agency; and

c. The coalition demonstrates to the Agency for Workforce Innovation the coalition's ability to effectively and efficiently implement the Voluntary Prekindergarten Education Program.

If an early learning coalition fails or refuses to merge as required by this subparagraph, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the coalition is reestablished through resubmission of a school readiness plan and approval by the agency.

3. Notwithstanding the provisions of subparagraphs 1. and 2., the early learning coalitions in Sarasota, Osceola, and Santa Rosa Counties which were in operation on January 1, 2005, are established and authorized to continue operation as independent coalitions, and shall not be counted within the limit of 30 coalitions established in subparagraph 1.

4. Each early learning coalition shall be composed of at least 18 members but not more than 35 members. The Agency for Workforce Innovation shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition. These standards must include variations for a coalition serving a multicounty region. Each early learning coalition must comply with these standards.

5. The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private sector business members appointed by the coalition under subparagraph 7.

6. Each early learning coalition must include the following members:

a. A Department of Children and Family Services district administrator or his or her designee who is authorized to make decisions on behalf of the department.

b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district, who shall be a nonvoting member.

c. A regional workforce board executive director or his or her designee.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable, who shall be a nonvoting member if the council or

board is the fiscal agent of the coalition or if the council or board contracts with and receives funds from the coalition for any purpose other than rent.

f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.

g. A president of a community college or his or her designee.

h. One member appointed by a board of county commissioners.

i. A central agency administrator, where applicable, who shall be a nonvoting member.

j. A Head Start director, who shall be a nonvoting member.

k. A representative of private child care providers, including family day care homes, who shall be a nonvoting member.

l. A representative of faith-based child care providers, who shall be a nonvoting member.

m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act, who shall be a nonvoting member.

7. Including the members appointed by the Governor under subparagraph 5., more than one-third of the members of each early learning coalition must be private sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members from a list of nominees submitted to the coalition by a chamber of commerce or economic development council within the geographic region served by the coalition. The Agency for Workforce Innovation shall establish criteria for appointing private sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.

8. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition. An early learning coalition board may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

9. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family

Services appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

10. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

11. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.

12. An early learning coalition serving a multi-county region must include representation from each county.

13. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

(b) Program participation.—The school readiness program shall be established for children from birth to the beginning of the school year for which a child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. The program shall be administered by the early learning coalition. Within funding limitations, the early learning coalition, along with all providers, shall make reasonable efforts to accommodate the needs of children for extended-day and extended-year services without compromising the quality of the program.

(c) Program expectations.

1. The school readiness program must meet the following expectations:

a. The program must, at a minimum, enhance the age-appropriate progress of each child in the development of the school readiness skills required under paragraph (4)(j), as measured by the performance standards and outcome measures adopted by the Agency for Workforce Innovation.

b. The program must provide extended-day and extended-year services to the maximum extent possible to meet the needs of parents who work.

c. There must be coordinated staff development and teaching opportunities.

d. There must be expanded access to community services and resources for families to help achieve economic self-sufficiency.

e. There must be a single point of entry and unified waiting list. As used in this sub-subparagraph, the term "single point of entry" means an integrated information system that allows a parent to enroll his or her child in the school readiness program at various locations throughout the county or multicounty region served by an early learning coalition, that may allow a parent to enroll his or her

child by telephone or through an Internet website, and that uses a unified waiting list to track eligible children waiting for enrollment in the school readiness program. The Agency for Workforce Innovation shall establish a single statewide information system that integrates each early learning coalition's single point of entry, and each coalition must use the statewide system.

f. The Agency for Workforce Innovation must consider the access of eligible children to the school readiness program, as demonstrated in part by waiting lists, before approving a proposed increase in payment rates submitted by an early learning coalition. In addition, early learning coalitions shall use school readiness funds made available due to enrollment shifts from school readiness programs to the Voluntary Prekindergarten Education Program for increasing the number of children served in school readiness programs before increasing payment rates.

g. There must be a community plan to address the needs of all eligible children.

h. The program must meet all state licensing guidelines, where applicable.

2. The early learning coalition must implement a comprehensive program of school readiness services that enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures adopted by the Agency for Workforce Innovation. At a minimum, these programs must contain the following elements:

a. Developmentally appropriate curriculum designed to enhance the age-appropriate progress of children in attaining the performance standards adopted by the Agency for Workforce Innovation under subparagraph (4)(d)8.

b. A character development program to develop basic values.

c. An age-appropriate assessment of each child's development.

d. A pretest administered to children when they enter a program and a posttest administered to children when they leave the program.

e. An appropriate staff-to-children ratio.

f. A healthy and safe environment.

g. A resource and referral network to assist parents in making an informed choice.

(d) Implementation.

1. An early learning coalition may not implement the school readiness program until the coalition is authorized through approval of the coalition's school readiness plan by the Agency for Workforce Innovation.

2. Each early learning coalition shall develop a plan for implementing the school readiness program to meet the requirements of this section and the performance standards and outcome measures adopted by the Agency for Workforce Innovation. The plan must demonstrate how the program will

ensure that each 3-year-old and 4-year-old child in a publicly funded school readiness program receives scheduled activities and instruction designed to enhance the age-appropriate progress of the children in attaining the performance standards adopted by the Agency for Workforce Innovation under subparagraph (4)(d)8. Before implementing the school readiness program, the early learning coalition must submit the plan to the Agency for Workforce Innovation for approval. The Agency for Workforce Innovation may approve the plan, reject the plan, or approve the plan with conditions. The Agency for Workforce Innovation shall review school readiness plans at least annually.

3. If the Agency for Workforce Innovation determines during the annual review of school readiness plans, or through monitoring and performance evaluations conducted under paragraph (4)(l), that an early learning coalition has not substantially implemented its plan, has not substantially met the performance standards and outcome measures adopted by the agency, or has not effectively administered the school readiness program or Voluntary Prekindergarten Education Program, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the coalition is reestablished through resubmission of a school readiness plan and approval by the agency.

4. The Agency for Workforce Innovation shall adopt criteria for the approval of school readiness plans. The criteria must be consistent with the performance standards and outcome measures adopted by the agency and must require each approved plan to include the following minimum standards and provisions:

a. A sliding fee scale establishing a copayment for parents based upon their ability to pay, which is the same for all program providers, to be implemented and reflected in each program's budget.

b. A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.

c. Instructional staff who have completed the training course as required in s. 402.305(2)(d)1., as well as staff who have additional training or credentials as required by the Agency for Workforce Innovation. The plan must provide a method for assuring the qualifications of all personnel in all program settings.

d. Specific eligibility priorities for children within the early learning coalition's county or multicounty region in accordance with subsection (6).

e. Performance standards and outcome measures adopted by the Agency for Workforce Innovation.

f. Payment rates adopted by the early learning coalition and approved by the Agency for Workforce Innovation. Payment rates may not have the effect

of limiting parental choice or creating standards or levels of services that have not been authorized by the Legislature.

g. Systems support services, including a central agency, child care resource and referral, eligibility determinations, training of providers, and parent support and involvement.

h. Direct enhancement services to families and children. System support and direct enhancement services shall be in addition to payments for the placement of children in school readiness programs.

i. The business organization of the early learning coalition, which must include the coalition's articles of incorporation and bylaws if the coalition is organized as a corporation. If the coalition is not organized as a corporation or other business entity, the plan must include the contract with a fiscal agent. An early learning coalition may contract with other coalitions to achieve efficiency in multicounty services, and these contracts may be part of the coalition's school readiness plan.

j. Strategies to meet the needs of unique populations, such as migrant workers.

As part of the school readiness plan, the early learning coalition may request the Governor to apply for a waiver to allow the coalition to administer the Head Start Program to accomplish the purposes of the school readiness program. If a school readiness plan demonstrates that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, a request for a waiver to the Agency for Workforce Innovation may be submitted as part of the plan. Upon review, the Agency for Workforce Innovation may grant the proposed modification.

5. Persons with an early childhood teaching certificate may provide support and supervision to other staff in the school readiness program.

6. An early learning coalition may not implement its school readiness plan until it submits the plan to and receives approval from the Agency for Workforce Innovation. Once the plan is approved, the plan and the services provided under the plan shall be controlled by the early learning coalition. The plan shall be reviewed and revised as necessary, but at least biennially. An early learning coalition may not implement the revisions until the coalition submits the revised plan to and receives approval from the Agency for Workforce Innovation. If the Agency for Workforce Innovation rejects a revised plan, the coalition must continue to operate under its prior approved plan.

7. Sections 125.901(2)(a)3., 411.221, and 411.232 do not apply to an early learning coalition with an approved school readiness plan. To facilitate innovative practices and to allow the regional establishment of school readiness programs, an early learning coalition may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any of the provisions of ss. 411.223,

411.232, and 1003.54, if the waiver is necessary for implementation of the coalition's school readiness plan.

8. Two or more counties may join for purposes of planning and implementing a school readiness program.

9. An early learning coalition may, subject to approval by the Agency for Workforce Innovation as part of the coalition's school readiness plan, receive subsidized child care funds for all children eligible for any federal subsidized child care program.

10. An early learning coalition may enter into multiparty contracts with multicounty service providers in order to meet the needs of unique populations such as migrant workers.

(e) Requests for proposals; payment schedule.—

1. Each early learning coalition must comply with s. 287.057 for the procurement of commodities or contractual services from the funds described in paragraph (9)(d). The period of a contract for purchase of these commodities or contractual services, together with any renewal of the original contract, may not exceed 3 years.

2. Each early learning coalition shall adopt a payment schedule that encompasses all programs funded by the coalition under this section. The payment schedule must take into consideration the relevant market rate, must include the projected number of children to be served, and must be submitted for approval by the Agency for Workforce Innovation. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate developed for a family day care home.

(f) Requirements relating to fiscal agents.—If an early learning coalition is not legally organized as a corporation or other business entity, the coalition must designate a fiscal agent, which may be a public entity, a private nonprofit organization, or a certified public accountant who holds a license under chapter 473. The fiscal agent must provide financial and administrative services under a contract with the early learning coalition. The fiscal agent may not provide direct early childhood education or child care services; however, a fiscal agent may provide those services upon written request of the early learning coalition to the Agency for Workforce Innovation and upon the approval of the request by the agency. The cost of the financial and administrative services shall be negotiated between the fiscal agent and the early learning coalition. If the fiscal agent is a provider of early childhood education and child care programs, the contract must specify that the fiscal agent shall act on policy direction from the early learning coalition and must not receive policy direction from its own corporate board regarding disbursement of the coalition's funds. The fiscal agent shall disburse funds in accordance with the early learning coalition's approved school readiness plan and based on billing and disbursement procedures approved by the

Agency for Workforce Innovation. The fiscal agent must conform to all data-reporting requirements established by the Agency for Workforce Innovation.

(g) Evaluation and annual report.—Each early learning coalition shall conduct an evaluation of the effectiveness of the school readiness program, including performance standards and outcome measures, and shall provide an annual report and fiscal statement to the Agency for Workforce Innovation. This report must conform to the content and format specifications set by the Agency for Workforce Innovation. The Agency for Workforce Innovation must include an analysis of the early learning coalitions' reports in the agency's annual report.

(6) PROGRAM ELIGIBILITY.—Each early learning coalition's school readiness program shall be established for children from birth to the beginning of the school year for which a child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. Priority for participation in the school readiness program shall be given to children age 3 years to school entry who are served by the Family Safety Program Office of the Department of Children and Family Services or a community-based lead agency under chapter 39 and for whom child care is needed to minimize risk of further abuse, neglect, or abandonment. Other eligible populations include children who meet one or more of the following criteria:

(a) Children under the age of kindergarten eligibility who are:

1. Children determined to be at risk of abuse, neglect, or exploitation who are currently clients of the Family Safety Program Office of the Department of Children and Family Services, but who are not otherwise given priority under this subsection.

2. Children at risk of welfare dependency, including economically disadvantaged children, children of participants in the welfare transition program, children of migrant farmworkers, and children of teen parents.

3. Children of working families whose family income does not exceed 150 percent of the federal poverty level.

4. Children for whom the state is paying a relative caregiver payment under s. 39.5085.

(b) Three-year-old children and 4-year-old children who may not be economically disadvantaged but who have disabilities, have been served in a specific part-time or combination of part-time exceptional education programs with required special services, aids, or equipment, and were previously reported for funding part time with the Florida Education Finance Program as exceptional students.

(c) Economically disadvantaged children, children with disabilities, and children at risk of future school failure, from birth to 4 years of age, who are served at home through home visitor programs and intensive parent education programs.

(d) Children who meet federal and state eligibil-

ity requirements for the migrant preschool program but who do not meet the criteria of economically disadvantaged.

As used in this subsection, the term "economically disadvantaged" child means a child whose family income does not exceed 150 percent of the federal poverty level. Notwithstanding any change in a family's economic status, but subject to additional family contributions in accordance with the sliding fee scale, a child who meets the eligibility requirements upon initial registration for the program remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(7) PARENTAL CHOICE.—

(a) The school readiness program shall provide parental choice through a purchase service order that ensures, to the maximum extent possible, flexibility in school readiness programs and payment arrangements. According to federal regulations requiring parental choice, a parent may choose an informal child care arrangement. The purchase order must bear the name of the beneficiary and the program provider and, when redeemed, must bear the signature of both the beneficiary and an authorized representative of the provider.

(b) If it is determined that a provider has provided any cash to the beneficiary in return for receiving the purchase order, the early learning coalition or its fiscal agent shall refer the matter to the Division of Public Assistance Fraud for investigation.

(c) The office of the Chief Financial Officer shall establish an electronic transfer system for the disbursement of funds in accordance with this subsection. Each early learning coalition shall fully implement the electronic funds transfer system within 2 years after approval of the coalition's school readiness plan, unless a waiver is obtained from the Agency for Workforce Innovation.

(8) STANDARDS; OUTCOME MEASURES.—All school readiness programs must meet the performance standards and outcome measures adopted by the Agency for Workforce Innovation.

(9) FUNDING; SCHOOL READINESS PROGRAM.—

(a) It is the intent of this section to establish an integrated and quality seamless service delivery system for all publicly funded early childhood education and child care programs operating in this state.

(b)1. The Agency for Workforce Innovation shall administer school readiness funds, plans, and policies and shall prepare and submit a unified budget request for the school readiness system in accordance with chapter 216.

2. All instructions to early learning coalitions for administering this section shall emanate from the Agency for Workforce Innovation in accordance with the policies of the Legislature.

(c) The Agency for Workforce Innovation shall

recommend a formula for the allocation among the early learning coalitions of all state and federal school readiness funds for children participating in public or private school readiness programs based upon equity and performance. The allocation formula must be submitted to the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House of Representatives Fiscal Council or its successor no later than January 1 of each year. The Legislature shall specify in the annual General Appropriations Act any changes from the allocation methodology for the prior fiscal year which must be used by the Agency for Workforce Innovation in allocating the appropriations provided in the General Appropriations Act.

(d) All state, federal, and required local maintenance-of-effort or matching funds provided to an early learning coalition for purposes of this section shall be used by the coalition for implementation of its school readiness plan, including the hiring of staff to effectively operate the coalition's school readiness program. As part of plan approval and periodic plan review, the Agency for Workforce Innovation shall require that administrative costs be kept to the minimum necessary for efficient and effective administration of the school readiness plan, but total administrative expenditures must not exceed 5 percent unless specifically waived by the Agency for Workforce Innovation. The Agency for Workforce Innovation shall annually report to the Legislature any problems relating to administrative costs.

(e) The Agency for Workforce Innovation shall annually distribute, to a maximum extent practicable, all eligible funds provided under this section as block grants to the early learning coalitions.

(f) State funds appropriated for the school readiness program may not be used for the construction of new facilities or the purchase of buses. The Agency for Workforce Innovation shall present to the Legislature recommendations for providing necessary transportation services for school readiness programs.

(g) All cost savings and all revenues received through a mandatory sliding fee scale shall be used to help fund each early learning coalition's school readiness program.

(10) CONFLICTING PROVISIONS.—In the event of a conflict between this section and federal requirements, the federal requirements shall control.

(11) PLACEMENTS.—Notwithstanding any other provision of this section to the contrary, the first children to be placed in the school readiness program shall be those from families receiving temporary cash assistance and subject to federal work requirements. Subsequent placements shall be made in accordance with subsection (6).

History.—s. 1, ch. 99-357; s. 65, ch. 2000-139; s. 1, ch. 2000-149; s. 97, ch. 2000-165; s. 12, ch. 2000-337; s. 55, ch. 2001-62; s. 13, ch. 2001-89; s. 20, ch. 2001-170; s. 114, ch. 2001-266; s. 4, ch. 2002-38; s. 998, ch. 2002-387; ss. 59, 79, ch. 2002-402; s. 48, ch. 2003-1; s. 453, ch. 2003-261; s. 3, ch. 2003-292; s. 74, ch. 2003-399; s. 49, ch. 2004-269; s. 2, ch. 2004-484; s. 2, ch. 2005-56; s. 2, ch. 2006-17; ss. 40, 41, 53, ch. 2006-26; s. 2, ch. 2008-196.

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**411.0105 Early Learning Opportunities Act and Even Start Family Literacy Programs; lead agency.**—For purposes of administration of the Early Learning Opportunities Act and the Even Start Family Literacy Programs, pursuant to Pub. L. No.

106-554, the Agency for Workforce Innovation is designated as the lead agency and must comply with lead agency responsibilities pursuant to federal law.

History.—s. 19, ch. 2001-170.

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**411.011 Records of children in school readiness programs.**—

(1) The individual records of children enrolled in school readiness programs provided under s. 411.01, held by an early learning coalition or the Agency for Workforce Innovation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, records include assessment data, health data, records of teacher observations, and personal identifying information.

(2) A parent, guardian, or individual acting as a parent in the absence of a parent or guardian has the right to inspect and review the individual school readiness program record of his or her child and to obtain a copy of the record.

(3) School readiness records may be released to:

(a) The United States Secretary of Education, the United States Secretary of Health and Human Services, and the Comptroller General of the United

States for the purpose of federal audits.

(b) Individuals or organizations conducting studies for institutions to develop, validate, or administer assessments or improve instruction.

(c) Accrediting organizations in order to carry out their accrediting functions.

(d) Appropriate parties in connection with an emergency if the information is necessary to protect the health or safety of the child enrollee or other individuals.

(e) The Auditor General in connection with his or her official functions.

(f) A court of competent jurisdiction in compliance with an order of that court in accordance with a lawfully issued subpoena.

(g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, providers of school readiness programs, state agencies, and the Agency for Workforce Innovation for the purpose of implementing the school readiness program.

Agencies, organizations, or individuals that receive school readiness records in order to carry out their official functions must protect the data in a manner that does not permit the personal identification of a child enrolled in a school readiness

program and his or her parents by persons other than those authorized to receive the records.

**History.**—s. 3, ch. 2000-299; s. 9, ch. 2004-484; s. 1, ch. 2005-131.

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**411.201 Florida Prevention, Early Assistance, and Early Childhood Act; short title.**— This chapter may be cited as the “Florida Prevention, Early

Assistance, and Early Childhood Act.”

**History.**—s. 1, ch. 89-379.

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**411.202 Definitions.**—As used in this chapter, the term:

(1) “Assistance services” means those assessments, individualized therapies, and other medical, educational, and social services designed to enhance the environment for the high-risk or handicapped preschool child, in order to achieve optimum growth and development. Provision of such services may include monitoring and modifying the delivery of assistance services.

(2) “Case management” means those activities aimed at assessing the needs of the high-risk child and his or her family; planning and linking the service system to the child and his or her family, based on child and family outcome objectives; coordinating and monitoring service delivery; and evaluating the effect of the service delivery system.

(3) “Community-based local contractor” means any unit of county or local government, any for-profit or not-for-profit organization, or a school district.

(4) “Developmental assistance” means individualized therapies and services needed to enhance both the high-risk child’s growth and development and family functioning.

(5) “Discharge planning” means the modification of the written individual and family service plan at the time of discharge from the hospital, which plan identifies for the family of a high-risk or handicapped infant a prescription of needed medical treatments or medications, specialized evaluation needs, and necessary nonmedical and educational intervention services.

(6) “Drug-exposed child” means any child from birth to 5 years of age for whom there is documented evidence that the mother used illicit drugs or was a substance abuser, or both, during pregnancy and the child exhibits:

- (a) Abnormal growth
- (b) Abnormal neurological patterns
- (c) Abnormal behavior problems; or
- (d) Abnormal cognitive development

(7) “Early assistance” means any sustained and systematic effort designed to prevent or reduce the assessed level of health, educational, biological, environmental, or social risk for a high-risk child and his or her family.

(8) “Handicapped child” means a preschool child who is developmentally disabled, mentally handicapped, speech impaired, language impaired, deaf or hard of hearing, blind or partially sighted,

physically handicapped, health impaired, or emotionally handicapped; a preschool child who has a specific learning disability; or any other child who has been classified under rules of the State Board of Education as eligible for preschool special education services, with the exception of those who are classified solely as gifted.

(9) “High-risk child” or “at-risk child” means a preschool child with one or more of the following characteristics:

(a) The child is a victim or a sibling of a victim in a confirmed or indicated report of child abuse or neglect.

(b) The child is a graduate of a perinatal intensive care unit.

(c) The child’s mother is under 18 years of age, unless the mother received necessary comprehensive maternity care and the mother and child currently receive necessary support services.

(d) The child has a developmental delay of one standard deviation below the mean in cognition, language, or physical development.

(e) The child has survived a catastrophic infectious or traumatic illness known to be associated with developmental delay.

(f) The child has survived an accident resulting in a developmental delay.

(g) The child has a parent or guardian who is developmentally disabled, severely emotionally disturbed, drug or alcohol dependent, or incarcerated and who requires assistance in meeting the child’s developmental needs.

(h) The child has no parent or guardian

(i) The child is drug exposed

(j) The child’s family’s income is at or below 100 percent of the federal poverty level or the child’s family’s income level impairs the development of the child.

(k) The child is a handicapped child as defined in subsection (8).

(l) The child has been placed in residential care under the custody of the state through dependency proceedings pursuant to chapter 39.

(m) The child is a member of a migrant farm-worker family.

(10) “Impact evaluation” means the provision of evaluation information to the department on the impact of the components of the childhood pregnancy prevention public education program and an assessment of the impact of the program on a child’s

related sexual knowledge, attitudes, and risk-taking behavior.

(11) "Individual and family service plan" means a written individualized plan describing the developmental status of the high-risk child and the therapies and services needed to enhance both the high-risk child's growth and development and family functioning, and shall include the contents of the written individualized family service plan as defined in part H of Pub. L. No. 99-457.

(12) "Infant" or "toddler" means any child from birth to 3 years of age.

(13) "Interdisciplinary team" means a team that may include the physician, psychologist, educator, social worker, nursing staff, physical or occupational therapist, speech pathologist, parents, developmental intervention and parent support and training program director, case manager for the child and family, and others who are involved with the individual and family service plan.

(14) "Parent support and training" means a range of services for families of high-risk or handicapped preschool children, including family counseling; financial planning; agency referral; development of parent-to-parent support groups; education relating to growth and development, developmental assistance, and objective measurable skills, including abuse avoidance skills; training of parents to advocate for their child; and bereavement counseling.

(15) "Posthospital assistance services" means assessment, individual and family service planning, developmental assistance, counseling, parent education, and referrals which are delivered as needed in a home or nonhome setting, upon discharge, by a professional or paraprofessional trained for this purpose.

(16) "Prenatal" means the time period from pregnancy to delivery.

(17) "Preschool child" means a child from birth to 5 years of age, including a child who attains 5 years of age before September 1.

(18) "Prevention" means any program, service, or sustained activity designed to eliminate or reduce high-risk conditions in pregnant women, to eliminate or ameliorate handicapping or high-risk conditions in infants, toddlers, or preschool children, or to reduce sexual activity or the risk of unwanted pregnancy in teenagers.

(19) "Preventive health care" means periodic physical examinations, immunizations, and assessments for hearing, vision, nutritional deficiencies, development of language, physical growth, small and large muscle skills, and emotional behavior, as well as age-appropriate laboratory tests.

(20) "Process evaluation" means the provision of information to the department on the breadth and scope of the childhood pregnancy prevention public education program. The evaluation must identify program areas that need modification and identify community-based local contractor strategies and procedures which are particularly effective.

(21) "Strategic plan" means a report that analyzes existing programs, services, resources, policy, and needs and sets clear and consistent direction for programs and services for high-risk pregnant women and for preschool children, with emphasis on high-risk and handicapped children, by establishing goals and child and family outcomes, and strategies to meet them.

(22) "Teen parent" means a person under 18 years of age or enrolled in school in grade 12 or below, who is pregnant, who is the father of an unborn child, or who is the parent of a child.

History.—s. 1, ch. 89-379; s. 7, ch. 90-358; s. 2, ch. 91-229; s. 1, ch. 95-321; s. 51, ch. 97-103; s. 62, ch. 2000-153.

**411.203 Continuum of comprehensive services.**—The Department of Education and the Department of Health and Rehabilitative Services shall utilize the continuum of prevention and early assistance services for high-risk pregnant women and for high-risk and handicapped children and their families, as outlined in this section, as a basis for the intraagency and interagency program coordination, monitoring, and analysis required in this chapter. The continuum shall be the guide for the comprehensive statewide approach for services for high-risk pregnant women and for high-risk and handicapped children and their families, and may be expanded or reduced as necessary for the enhancement of those services. Expansion or reduction of the continuum shall be determined by intraagency or interagency findings and agreement, whichever is applicable. Implementation of the continuum shall be based upon applicable eligibility criteria, availability of resources, and interagency prioritization when programs impact

both agencies, or upon single agency prioritization when programs impact only one agency. The continuum shall include, but not be limited to:

(1) EDUCATION AND AWARENESS.—

(a) Education of the public concerning, but not limited to, the causes of handicapping conditions, normal and abnormal child development, the benefits of abstinence from sexual activity, and the consequences of teenage pregnancy.

(b) Education of professionals and paraprofessionals concerning, but not limited to, the causes of handicapping conditions, normal and abnormal child development, parenting skills, the benefits of abstinence from sexual activity, and the consequences of teenage pregnancy, through preservice and inservice training, continuing education, and required postsecondary coursework.

(2) INFORMATION AND REFERRAL.—

(a) Providing information about available services and programs to families of high-risk and

handicapped children.

(b) Providing information about service options and providing technical assistance to aid families in the decisionmaking process.

(c) Directing the family to appropriate services and programs to meet identified needs.

(3) CASE MANAGEMENT.—

(a) Arranging and coordinating services and activities for high-risk pregnant women, and for high-risk children and their families, with identified service providers.

(b) Providing appropriate casework services to pregnant women and to high-risk children and their families.

(c) Advocating for pregnant women and for children and their families.

(4) SUPPORT SERVICES PRIOR TO PREGNANCY.—

(a) Basic needs, such as food, clothing, an shelter.

(b) Health education.

(c) Family planning services, on a voluntar basis.

(d) Counseling to promote a healthy, stable, and supportive family unit, to include, but not be limited to, financial planning, stress management, and educational planning.

(5) MATERNITY AND NEWBORN SERVICES.—

(a) Comprehensive prenatal care, accessible to all pregnant women and provided for high-risk pregnant women.

(b) Adoption counseling for unmarried pregnant teenagers.

(c) Nutrition services for high-risk pregnant women.

(d) Perinatal intensive care.

(e) Delivery services for high-risk pregnant women.

(f) Postpartum care

(g) Nutrition services for lactating mothers of high-risk children.

(h) A new mother information program at the birth site, to provide an informational brochure about immunizations, normal child development, abuse avoidance and appropriate parenting strategies, family planning, and community resources and support services for all parents of newborns and to schedule Medicaid-eligible infants for a health checkup.

(i) Appropriate screenings, to include, but not be limited to, metabolic screening, sickle-cell screening, hearing screening, developmental screening, and categorical screening.

(j) Followup family planning services for high-risk mothers and mothers of high-risk infants.

(6) HEALTH AND NUTRITION SERVICES FOR PRESCHOOL CHILDREN.—

(a) Preventive health services for all preschool children.

(b) Nutrition services for all preschool children, including, but not limited to, the Child Care Food Program and the Special Supplemental Food Program for Women, Infants, and Children.

(c) Medical care for seriously medically impaired preschool children.

(d) Cost-effective quality health care alternatives for medically involved preschool children, in or near their homes.

(7) EDUCATION, EARLY ASSISTANCE, AND RELATED SERVICES FOR HIGH-RISK CHILDREN AND THEIR FAMILIES.—

(a) Early assistance, including, but not limited to, developmental assistance programs, parent support and training programs, and appropriate followup assistance services, for handicapped and high-risk infants and their families.

(b) Special education and related services for handicapped children.

(c) Education, early assistance, and related services for high-risk children.

(8) SUPPORT SERVICES FOR ALL EXPECTANT PARENTS AND PARENTS OF HIGH-RISK CHILDREN.—

(a) Nonmedical prenatal and support services for pregnant teenagers and other high-risk pregnant women.

(b) Child care and early childhood programs, including, but not limited to, subsidized child care, licensed nonsubsidized child care, family day care homes, therapeutic child care, Head Start, and preschool programs in public and private schools.

(c) Parent education and counseling

(d) Transportation.

(e) Respite care, homemaker care, crisis management, and other services that allow families of high-risk children to maintain and provide quality care to their children at home.

(f) Parent support groups, such as the community resource mother or father program as established in s. 402.45, or parents as first teachers, to strengthen families and to enable families of high-risk children to better meet their needs.

(g) Utilization of the elderly, either as volunteers or paid employees, to work with high-risk children.

(h) Utilization of high school and postsecondary students as volunteers to work with high-risk children.

(9) MANAGEMENT SYSTEMS AND PROCEDURES.—

(a) Resource information systems on services and programs available for families.

(b) Registry of high-risk newborns and newborns with birth defects, which utilizes privacy safeguards for children and parents who are subjects of the registry.

(c) Local registry of preschoolers with high-risk or handicapping conditions, which utilizes privacy safeguards for children and parents who are subjects of the registry.

(d) Information sharing system among the 'Department of Health and Rehabilitative Services, the Department of Education, local education agencies, and other appropriate entities, on children eligible for services. Information may be shared when parental or guardian permission has been given for release.

(e) Well-baby insurance for preschoolers included in the family policy coverage.

(f) Evaluation, to include

1. Establishing child-centered and family-focused goals and objectives for each element of the continuum.

2. Developing a system to report child and family outcomes and program effectiveness for each element of the continuum.

(g) Planning for continuation of services, to

include:

1. Individual and family service plan by an interdisciplinary team, for the transition from birth or the earliest point of identification of a high-risk infant or toddler into an early assistance, preschool program for 3-year-olds or 4-year-olds, or other appropriate programs.

2. Individual and family service plan by an interdisciplinary team, for the transition of a high-risk preschool child into a public or private school system.

History.—s. 1, ch. 89-379; s. 999, ch. 2002-387.

'Note.—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403, and the Department of Health was created by s. 8, ch. 96-403.

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**411.205 Rules.**—The [Footnote 1] Department of Health and Rehabilitative Services and the State Board of Education shall adopt rules necessary for the implementation of this chapter.

History: s. 1, ch. 89-379.

[Footnote 1] Note.—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403, and the Department of Health was created by s. 8, ch. 96-403.

## Part II

### Prevention and Early Assistance

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**411.22 Legislative intent.**— The Legislature finds and declares that 50 percent of handicapping conditions in young children can be prevented, and such conditions which are not prevented can be minimized by focusing prevention efforts on high-risk pregnant women and on high-risk and handicapped preschool children and their families. The Legislature further finds that by preventing handicaps in preschool children, infant mortality and child abuse can be reduced and this state can reap substantial savings in both human potential and state funds. The Legislature finds that infant mortality, handicapping conditions in young children, and other health problems for infants and mothers are associated with teenage pregnancy and that the prevention of sexual activity and unwanted teenage pregnancy can reduce the number of at-risk children, while increasing human potential and reducing the cost of health care. The Legislature further finds that a continuum of integrated services is needed to identify,

diagnose, and treat high-risk conditions in pregnant women and in preschool children. The Legislature finds that intraagency and interagency coordination can enhance the framework of a continuum that is already in existence and that coordination of public sector and private sector prevention services can reduce infant mortality and handicapping conditions in preschool children and minimize the effects of handicapping conditions. It is the intent of the Legislature, therefore, that a continuum of efficient and cost-effective prevention and early assistance services be identified, that a plan for intraagency and interagency coordination be developed for the purpose of implementing such a continuum, and that the continuum of services be implemented as resources are made available for such implementation.

History.—s. 2, ch. 89-379; s. 8, ch. 90-358.

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**411.221 Prevention and early assistance strategic plan; agency responsibilities.**—

(1) The 'Department of Health and Rehabilitative Services and the Department of Education shall prepare a joint strategic plan relating to prevention and early assistance, which shall include, but not be limited to, the following:

(a) Identification of the department which has the responsibility for each program area described in the continuum.

(b) Identification of the unit within each department which has responsibility for each program area described in the continuum.

(c) Identification of existing continuum programs on an intraagency and interagency basis.

(d) Identification of strategies for coordination of services on both an intraagency and interagency basis and a description of the progress of implementation of strategies.

(e) Identification of strategies for reducing duplication of services on both an intraagency and interagency basis and a description of progress of those strategies in reduction of duplication.

(f) Identification of activities for coordination and integration of prevention and early assistance services with state agencies other than the Department of Education or the 'Department of Health and Rehabilitative Services.

(g) Identification of activities for coordination and integration of prevention and early assistance services at the district and local levels and strategies for public and private partnerships in the provision of the continuum of services.

(h) Recommendations for implementation of

the continuum of comprehensive services, including, but not limited to, the schedule for implementation of components.

(i) Identification of barriers impacting implementation of components of the continuum of services.

(j) Proposed changes to the continuum of services.

(k) Identification of methods of comparing program and child and family outcomes and identification of standardized reporting procedures to enhance data collection and analysis on an intraagency and interagency basis.

(l) Recommendations, if any, for legislative, administrative, or budgetary changes. Budgetary changes shall include recommendations regarding the development by the 'Department of Health and Rehabilitative Services and the Department of Education of a unified program budget for all prevention and early assistance services to high-risk pregnant women and to high-risk preschool children and their families. Such budget recommendations shall be consistent with the goals of the joint strategic plan and with the continuum of comprehensive services.

(2) The strategic plan and subsequent plan revisions shall incorporate and otherwise utilize, to the fullest extent possible, the evaluation findings and recommendations from intraagency, independent third-party, field projects, and reports issued by the Auditor General or the Office of Program Policy Analysis and Government Accountability, as well as the recommendations of the State Coordinating Council for School Readiness Programs.

(3) At least biennially, the 'Department of Health and Rehabilitative Services and the Depart-

ment of Education shall readdress the joint strategic plan submitted pursuant to this section and make necessary revisions. The revised plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than January 1 of each odd-numbered year.

(4) There is established an interagency coordinating council to advise the <sup>1</sup>Department of Health and Rehabilitative Services, the Department of Education, and other state agencies in the development of the joint strategic plan and to monitor the development of the plan. For the purpose of carrying out its responsibilities, the interagency coordinating council

shall have access to statistical information, budget documents, and workpapers developed by the <sup>1</sup>Department of Health and Rehabilitative Services and the Department of Education in preparing the joint strategic plan. The interagency coordinating council shall advise the appropriate substantive committees of the Senate and House of Representatives, and the Office of the Governor, on the progress of activities required in this chapter.

History.—s. 2, ch. 89-379; s. 17, ch. 94-154; s. 6, ch. 97-98; s. 22, ch. 2000-337; s. 115, ch. 2001-266.

<sup>1</sup>Note.—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403, and the Department of Health was created by s. 8, ch. 96-403.

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#### **411.223 Uniform standards.—**

(1) The Department of Children and Family Services, in consultation with the Department of Education, shall establish a minimum set of procedures for each preschool child who receives preventive health care with state funds. Preventive health care services shall meet the minimum standards established by federal law for the Early Periodic Screening, Diagnosis, and Treatment Program and shall provide guidance on screening instruments which are appropriate for identifying health risks and

handicapping conditions in preschool children.

(2) Duplicative diagnostic and planning practices shall be eliminated to the extent possible. Diagnostic and other information necessary to provide quality services to high-risk or handicapped children shall be shared among the program offices of the Department of Children and Family Services, pursuant to the provisions of s. 1002.22.

History.—s. 2, ch. 89-379; s. 66, ch. 2000-139; s. 1000, ch. 2002-387.

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#### **411.224 Family support planning process.—**The Legislature establishes a family support planning process to be used by the Department of Children and Family Services as the service planning process for targeted individuals, children, and families under its purview.

(1) The Department of Education shall take all appropriate and necessary steps to encourage and facilitate the implementation of the family support planning process for individuals, children, and families within its purview.

(2) To the extent possible within existing resources, the following populations must be included in the family support planning process:

(a) Children from birth to age 5 who are served by the clinic and programs of the Division of Children's Medical Services of the Department of Health.

(b) Children participating in the developmental evaluation and intervention program of the Division of Children's Medical Services of the Department of Health.

(c) Children from age 3 through age 5 who are served by the Agency for Persons with Disabilities.

(d) Children from birth through age 5 who are served by the Mental Health Program Office of the Department of Children and Family Services.

(e) Participants who are served by the Children's Early Investment Program established in s. 411.232.

(f) Healthy Start participants in need of ongoing service coordination.

(g) Children from birth through age 5 who are served by the voluntary family services, protective

supervision, foster care, or adoption and related services programs of the Child Care Services Program Office of the Department of Children and Family Services, and who are eligible for ongoing services from one or more other programs or agencies that participate in family support planning; however, children served by the voluntary family services program, where the planned length of intervention is 30 days or less, are excluded from this population.

(3) When individuals included in the target population are served by Head Start, local education agencies, or other prevention and early intervention programs, providers must be notified and efforts made to facilitate the concerned agency's participation in family support planning.

(4) Local education agencies are encouraged to use a family support planning process for children from birth through 5 years of age who are served by the prekindergarten program for children with disabilities, in lieu of the Individual Education Plan.

(5) There must be only a single-family support plan to address the problems of the various family members unless the family requests that an individual family support plan be developed for different members of that family. The family support plan must replace individual habilitation plans for children from 3 through 5 years old who are served by the Agency for Persons with Disabilities.

(6) The family support plan at a minimum must include the following information:

(a) The family's statement of family concerns, priorities, and resources.

(b) Information related to the health, education-

al, economic and social needs, and overall development of the individual and the family.

(c) The outcomes that the plan is intended to achieve.

(d) Identification of the resources and services to achieve each outcome projected in the plan. These resources and services are to be provided based on availability and funding.

(7) A family support plan meeting must be held with the family to initially develop the family support plan and annually thereafter to update the plan as necessary. The family includes anyone who has an integral role in the life of the individual or child as identified by the individual or family. The family support plan must be reviewed periodically during the year, at least at 6-month intervals, to modify and update the plan as needed. Such periodic reviews do not require a family support plan team meeting but may be accomplished through other means such as a case file review and telephone conference with the family.

(8) The initial family support plan must be developed within a 90-day period. If exceptional

circumstances make it impossible to complete the evaluation activities and to hold the initial family support plan team meeting within a reasonable time period, these circumstances must be documented, and the individual or family must be notified of the reason for the delay. With the agreement of the family and the provider, services for which either the individual or the family is eligible may be initiated before the completion of the evaluation activities and the family support plan.

(9) The Department of Children and Family Services, the Department of Health, and the Department of Education, to the extent that funds are available, must offer technical assistance to communities to facilitate the implementation of the family support plan.

(10) The Department of Children and Family Services, the Department of Health, and the Department of Education shall adopt rules necessary to implement this act.

History.—s. 7, ch. 93-143; s. 196, ch. 99-8; s. 67, ch. 2000-139; s. 63, ch. 2000-158; s. 55, ch. 2006-227.



## Part III

### Infants and Toddlers

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#### 411.23 Short title.—

Sections 411.23-411.232 may be cited as the “Child-

ren’s Early Investment Act.”

History: s. 3, ch. 89-379.

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#### 411.231 Legislative intent; purpose.—

The Legislature recognizes the need for and value of intensive, comprehensive, integrated, and continuous services statewide for young children who are at risk of developmental dysfunction or delay. For the purposes of the Children’s Early Investment Program, the term “young children” includes infants, 1-year-olds, and 2-year-olds. The Legislature supports intensive and comprehensive supportive programs and services being directed to expectant mothers and young children who, because of economic, social, environmental, or health factors need such services to enhance their development. The Legislature recognizes that children are part of families and that lasting effects on children can occur most productively when there is investment in and with families. The participants in the Children’s Early Investment Program shall receive priority consider-

ation for needed services, including prenatal care; health services to mothers and their young children; child care; alcohol and drug abuse treatment services; and economic support and training services. It is the intent of the Legislature that programs and services that will enhance a child’s physical, social, emotional, and intellectual development and provide support to parents and other family members be provided initially to geographic areas where the expectant mothers and young children are at great risk and that these programs and services ultimately be available statewide to all children and families who need them. These programs and services must be offered and coordinated by persons who have adequate time, skill, and resources to work with participants in a meaningful and effective manner.

History: s. 3, ch. 89-379.

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#### 411.232 Children’s Early Investment Program.—

(1) CREATION.—There is hereby created the Children’s Early Investment Program for young children who are at risk of developmental dysfunction or delay and for their families. This program shall coordinate a variety of resources to program participants through a responsible agent for the child and the child’s family. The services and assistance provided shall focus on the family and shall be comprehensive. The programs and services offered shall enhance family independence and shall provide social and educational resources needed for healthy child development.

(2) GOALS.—The goal of the Children’s Early Investment Program is to encourage and assist an effective investment strategy for the at-risk young children in this state and their families so that they will develop into healthy and productive members of society. The Children’s Early Investment Program is designed to provide intensive early intervention to at-risk expectant mothers, young children, and their families in order that this state will invest now for a future in which the workforce is skilled and stable; in which crime rates are reduced; and in which the social and economic costs of high-risk pregnancies and low birthweight babies are reduced. The objectives of the Children’s Early Investment Program are to increase the percentage of children entering the school system who are ready and able to learn; to reduce teenage pregnancies among this at-risk population; to reduce the numbers of cocaine babies born in this state; to reduce the crime rate among these children as they grow up; to reduce the rate of school dropouts in this state and to increase the basic skills and ability of the future workforce. It is

anticipated the efforts targeted now to expectant mothers and young children will show their greatest results in the years when these at-risk children enter school and when they are teenagers and young adults. Benefits are also anticipated, however, as the families of these children are assisted in addressing their own needs, and corresponding reductions in foster care placements, low birthweight babies, teen pregnancy, economic instability and dependence, and other signs of dysfunction are anticipated.

#### (3) ESSENTIAL ELEMENTS.—

(a) Initially, the program shall be directed to geographic areas where at-risk young children and their families are in greatest need because of an unfavorable combination of economic, social, environmental, and health factors, including, without limitation, extensive poverty, high crime rate, great incidence of low birthweight babies, high incidence of alcohol and drug abuse, and high rates of teenage pregnancy. The selection of a geographic site shall also consider the incidence of young children within these at-risk geographic areas who are cocaine babies, children of single mothers who receive temporary cash assistance, children of teenage parents, low birthweight babies, and very young foster children. To receive funding under this section, an agency, board, council, or provider must demonstrate:

1. Its capacity to administer and coordinate the programs and services in a comprehensive manner and provide a flexible range of services;
2. Its capacity to identify and serve those children least able to access existing programs and case management services;
3. Its capacity to administer and coordinate the

programs and services in an intensive and continuous manner;

4. The proximity of its facilities to young children, parents, and other family members to be served by the program, or its ability to provide offsite services;

5. Its ability to use existing federal, state, and local governmental programs and services in implementing the investment program;

6. Its ability to coordinate activities and services with existing public and private, state and local agencies and programs such as those responsible for health, education, social support, mental health, child care, respite care, housing, transportation, alcohol and drug abuse treatment and prevention, income assistance, employment training and placement, nutrition, and other relevant services, all the foregoing intended to assist children and families at risk;

7. How its plan will involve project participants and community representatives in the planning and operation of the investment program;

8. Its ability to participate in the evaluation component required in this section; and

9. Its consistency with the strategic plan pursuant to s. 411.221.

(b) While a flexible range of services is essential in the implementation of this act, the following services shall be considered the core group of services:

1. Adequate prenatal care

2. Health services to the at-risk young children and their families;

3. Infant and child care services

4. Parenting skills training

5. Education or training opportunities appropriate for the family; and

6. Economic support.

Additional services may include, without limitation, alcohol and drug abuse treatment, mental health services, housing assistance, transportation, and nutrition services.

(4) RULES FOR IMPLEMENTATION.—The Department of Health shall adopt rules necessary to implement this section.

History.—s. 3, ch. 89-379; s. 100, ch. 96-175; s. 204, ch. 97-101; s. 98, ch. 2000-165; s. 23, ch. 2000-337; s. 56, ch. 2006-227.

## Part IV

### Childhood Pregnancy Prevention Public Education Program

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**411.24 Short title.—**

This part may be cited as the “Florida Education

Now and Babies Later (ENABL) Act.”

History: s. 2, ch. 95-321.

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**411.241 Legislative intent.—**The Legislature finds and declares that childhood pregnancies continue to be a serious problem in the state. Therefore, the Legislature intends to establish, through a public-

private partnership, a program to encourage children to abstain from sexual activity.

History: s. 2, ch. 95-321.

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**411.242 Florida Education Now and Babies Later (ENABL) program.—**

(1) CREATION.—There is hereby created the Florida Education Now and Babies Later (ENABL) program for children and their families, with the goal of reducing the incidence of childhood pregnancies in this state by encouraging children to abstain from sexual activities. This program must provide a multifaceted, primary prevention, community health promotion approach to educating and supporting children in the decision to abstain from sexual involvement. The Department of Health, in consultation with the Department of Education, Florida State University, and other appropriate agencies or associations, shall develop, implement, and administer the ENABL program.

(2) GOALS.—The goal of the ENABL program is to encourage and assist boys and girls in this state to decide to abstain from engaging in sexual activity. The ENABL program is designed to reduce the incidence of childhood pregnancies; to increase the percentage of children graduating from school and becoming more productive citizens; to reduce the numbers of cocaine babies born in this state; to reduce the crime rate among these children as they grow up; to reduce the rate of school dropouts in this state; and to increase the basic skills and ability of the future workforce.

(3) ESSENTIAL ELEMENTS.—

(a) The ENABL program should be directed to geographic areas in the state where the childhood birth rate is higher than the state average and where the children and their families are in greatest need because of an unfavorable combination of economic, social, environmental, and health factors, including, without limitation, extensive poverty, high crime rate, great incidence of low birthweight babies, high incidence of alcohol and drug abuse, and high rates of childhood pregnancy. The selection of a geographic site shall also consider the incidence of young children within these at-risk geographic areas who are cocaine babies, children of single mothers who receive temporary cash assistance, children of teenage parents, low birthweight babies, and very young foster children. To receive funding under this section, a community-based local contractor must demonstrate:

1. Its capacity to administer and coordinate

the ENABL pregnancy prevention public education program and services for children and their families in a comprehensive manner and to provide a flexible range of age-appropriate educational services.

2. Its capacity to identify and serve those children least able to access existing pregnancy prevention public education programs.

3. Its capacity to administer and coordinate the ENABL programs and services in an intensive and continuous manner.

4. The proximity of its program to young children, parents, and other family members to be served by the ENABL program, or its ability to provide offsite educational services.

5. Its ability to incorporate existing federal, state, and local governmental educational programs and services in implementing the ENABL program.

6. Its ability to coordinate its activities and educational services with existing public and private state and local agencies and programs, such as those responsible for health, education, social support, mental health, child care, respite care, housing, transportation, alcohol and drug abuse treatment and prevention, income assistance, employment training and placement, nutrition, and other relevant services, all of the foregoing intended to assist children and families at risk.

7. How its plan will involve project participants and community representatives in the planning and operation of the ENABL program.

8. Its ability to participate in the evaluation component required in this section.

9. Its consistency with the strategic plan pursuant to s. 411.221.

10. Its capacity to match state funding for the ENABL program at the rate of \$1 in cash or in matching services for each dollar funded by the state.

(b) Any child whose parent or guardian presents to the community-based local contractor a signed statement that the child's participation in the ENABL program conflicts with the parent's or guardian's religious beliefs shall be exempt from such instruction. No child so exempt shall be penalized by reason of such exemption.

(c) While a flexible range of pregnancy prevention public education services is essential in the implementation of the ENABL program, the following

educational services and activities must be considered essential core services to be offered by each community-based local contractor:

1. Use of the postponing sexual involvement age-appropriate education curriculum targeted to boys and girls in schools or other community settings.

2. Strategies to convey and reinforce the ENABL message of postponing childhood sexual involvement to the affected community, including activities promoting awareness and involvement of parents, schools, churches, and other community groups or organizations.

3. Developing media linkages to publicize the purposes and goals of the ENABL program.

4. A referral mechanism for children or their families who request or need other health or social services, which may include, without limitation, referral for alcohol and drug abuse treatment, mental health services, housing assistance, transportation, and nutrition services.

(4) IMPLEMENTATION.—The department must:

(a) Implement the ENABL program using the criteria provided in this section. The department must evaluate, select, and monitor the two pilot projects to be funded initially. The following community-based local contractors may be selected among the first sites to be funded:

1. A program based in a local school district, a county health department, or another unit of local government.

2. A program based in a local, public or private, not-for-profit provider of services to children and their families.

(b) Provide technical assistance to each community-based local contractor, as necessary.

(c) Develop and implement the evaluation process.

(d) Explore and pursue federal and foundation funding possibilities, and specifically request the United States Department of Health and Human Services to supplement the development and implementation of the ENABL program.

(5) PUBLIC RELATIONS.—The department shall develop a statewide comprehensive media and public relations campaign to promote changes in sexual attitudes and behaviors among children and reinforce the message of abstaining from sexual activity.

(6) TRAINING.—The department shall be responsible for developing a uniform training program for the community-based local contractors selected to implement the ENABL program.

(7) EVALUATION.—There shall be an independent third-party evaluation of the initial grants. The contract for the evaluation shall be entered into prior to the selection of the community-based local contractor, to ensure integrity of the evaluation design, ongoing monitoring and periodic review of progress, and a timely, comprehensive evaluation report. The evaluation report shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and appropriate substantive committees and subcommittees of the Legislature by January 1, 1999, and biennially thereafter. The report due by January 1, 2001, or 5 years after the startup of the initial prototype programs, whichever is later, shall include the first longitudinal report on participant outcomes.

History.—s. 2, ch. 95-321; s. 101, ch. 96-175; s. 205, ch. 97-101; s. 197, ch. 99-8; s. 63, ch. 2000-153; s. 99, ch. 2000-165.

Florida Statutes Pertaining to Special Programs  
Chapters 468 and 486  
Miscellaneous Professions and Occupations and  
Physical Therapy Practice

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**Chapter 468, Part I,**

**Speech-Language Pathology and Audiology**

This Act is administered by the Agency for Health Care and Administration and is commonly referred to as "Licensing of Speech-Language Pathologists and Audiologists."

The legislative intent for passage of the Act was "to require educational training and certification of

any person who engages in the practice of speech-language pathology and audiology; to encourage better educational training programs; to prohibit the unauthorized and unqualified practice of speech-language pathology and audiology and the unprofessional conduct of person certified to practice speech-language pathology and audiology; and to provide for enforcement of this part and penalties for its violation."

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**Chapter 468, Part III**

**Occupational Therapy Practice**

The purpose of this act is to provide for the regulation of persons offering occupational therapy to the public in order to:

- a) Safeguard the public health, safety, and welfare.
- b) Protect the public from being misled by

incompetent, unscrupulous, and unauthorized persons.

c) Assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants.

d) Assure the availability of occupational therapy services and high quality to persons in need of such services.

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**Chapter 486**

**Physical Therapy Practice**

The sole legislative purpose in enacting this chapter is to ensure that every physical therapy practitioner practicing in this state meets minimum requirements for safe practice. It is the legislative

intent that physical therapy practitioners who fall below minimum competency or who otherwise present a danger to the public be prohibited from practicing in this state.

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**486.021 Definitions.**— In this chapter, unless the context otherwise requires, the term:

(1) "Board" means the Board of Physical Therapy Practice.

(2) "Department" means the Department of Health.

(3) "License" means the document of authorization granted by the board and issued by the department for a person to engage in the practice of physical therapy.

(4) "Endorsement" means licensure granted by the board pursuant to the provisions of s. 486.081 or s. 486.107.

(5) "Physical therapist" means a person who is licensed and who practices physical therapy in accordance with the provisions of this chapter.

(6) "Physical therapist assistant" means a person who is licensed in accordance with the provisions of this chapter to perform patient-related activities, including the use of physical agents, whose license is in good standing, and whose activities are performed under the direction of a physical therapist as set forth in rules adopted pursuant to this chapter. Patient-related activities performed by a physical therapist assistant for a board-certified orthopedic physician or physiatrist licensed pursuant to chapter 458 or chapter 459 or a practitioner licensed under chapter 460 shall be under the general supervision

of a physical therapist, but shall not require onsite supervision by a physical therapist. Patient-related activities performed for all other health care practitioners licensed under chapter 458 or chapter 459 and those patient-related activities performed for practitioners licensed under chapter 461 or chapter 466 shall be performed under the onsite supervision of a physical therapist.

(7) "Physical therapy practitioner" means a physical therapist or a physical therapist assistant who is licensed and who practices physical therapy in accordance with the provisions of this chapter.

(8) "Physical therapy" or "physiotherapy," each of which terms is deemed identical and interchangeable with each other, means a health care profession.

(9) "Direct supervision" means supervision by a physical therapist who is licensed pursuant to this chapter. Except in a case of emergency, direct supervision requires the physical presence of the licensed physical therapist for consultation and direction of the actions of a physical therapist or physical therapist assistant who is practicing under a temporary permit and who is a candidate for licensure by examination.

(10) "Physical therapy assessment" means observational, verbal, or manual determinations of the function of the musculoskeletal or neuromuscular

system relative to physical therapy, including, but not limited to, range of motion of a joint, motor power, postural attitudes, biomechanical function, locomotion, or functional abilities, for the purpose of making recommendations for treatment.

(11) "Practice of physical therapy" means the performance of physical therapy assessments and the treatment of any disability, injury, disease, or other health condition of human beings, or the prevention of such disability, injury, disease, or other condition of health, and rehabilitation as related thereto by the use of the physical, chemical, and other properties of air; electricity; exercise; massage; the performance of acupuncture only upon compliance with the criteria set forth by the Board of Medicine, when no penetration of the skin occurs; the use of radiant energy, including ultraviolet, visible, and infrared rays; ultrasound; water; the use of apparatus and equipment in the application of the foregoing or related thereto; the performance of tests of neuromuscular functions as an aid to the diagnosis or treatment of any human condition; or the performance of electromyography as an aid to the diagnosis of any human condition only upon compliance with the criteria set forth by the Board of Medicine. A physical therapist may implement a plan of treatment for a patient. The physical therapist shall refer the patient to or consult with a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, if the patient's condition is found to be outside the scope

of physical therapy. If physical therapy treatment for a patient is required beyond 21 days for a condition not previously assessed by a practitioner of record, the physical therapist shall obtain a practitioner of record who will review and sign the plan. A health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 and engaged in active practice is eligible to serve as a practitioner of record. The use of roentgen rays and radium for diagnostic and therapeutic purposes and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this chapter. The practice of physical therapy as defined in this chapter does not authorize a physical therapy practitioner to practice chiropractic medicine as defined in chapter 460, including specific spinal manipulation. For the performance of specific chiropractic spinal manipulation, a physical therapist shall refer the patient to a health care practitioner licensed under chapter 460. Nothing in this subsection authorizes a physical therapist to implement a plan of treatment for a patient currently being treated in a facility licensed pursuant to chapter 395.

History.—s. 2, ch. 57-67; s. 1, ch. 67-537; s. 1, ch. 73-354; ss. 1, 2, ch. 78-278; ss. 1, 2, ch. 79-116; s. 361, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 2, 24, ch. 83-86; s. 1, ch. 83-93; s. 1, ch. 84-275; ss. 3, 17, 18, ch. 86-31; s. 2, ch. 89-124; s. 4, ch. 91-429; s. 1, ch. 92-70; s. 181, ch. 94-218; s. 175, ch. 97-264; s. 287, ch. 98-166.

Florida Statutes Pertaining to Special Programs  
Chapter 984  
Children and Families in Need of Services

**984.071 Information packet.**—The Department of Juvenile Justice, in collaboration with the Department of Children and Family Services and the Department of Education, shall develop and publish an information packet that explains the current process under this chapter for obtaining assistance for a child in need of services or a family in need of services and the community services and resources available to parents of troubled or runaway children. In preparing the information packet, the Department of Juvenile Justice shall work with school district superintendents, juvenile court judges, county sheriffs, and other local law enforcement officials in order to ensure that the information packet lists services and resources that are currently available

within the county in which the packet is distributed. Each information packet shall be annually updated and shall be available for distribution by January 1, 1998. The school district shall distribute this information packet to parents of truant children and to other parents upon request or as deemed appropriate by the school district. In addition, the Department of Juvenile Justice shall distribute the information packet to state and local law enforcement agencies. Any law enforcement officer who has contact with the parent of a child who is locked out of the home or who runs away from home shall make the information available to the parent.

History.—s. 17, ch. 97-281; s. 67, ch. 98-280.

**984.12 Case staffing; services and treatment to a family in need of services.**—

(1) The appropriate representative of the department shall request a meeting of the family and child with a case staffing committee to review the case of any family or child who the department determines is in need of services or treatment if:

(a) The family or child is not in agreement with the services or treatment offered;

(b) The family or child will not participate in the services or treatment selected; or

(c) The representative of the department needs assistance in developing an appropriate plan for services. The time and place selected for the meeting shall be convenient for the child and family.

(2) The composition of the case staffing committee shall be based on the needs of the family and child. It shall include a representative from the child's school district and a representative of the Department of Juvenile Justice, and may include a supervisor of the department's contracted provider; a representative from the area of health, mental health, substance abuse, social, or educational services; a representative of the state attorney; the alternative sanctions coordinator; and any person recommended by the child, family, or department.

(3) The case staffing committee shall reach a timely decision to provide the child or family with needed services and treatment through the development of a plan for services.

(4) The plan for services shall contain the following:

- (a) Statement of the problems
- (b) Needs of the child.
- (c) Needs of the parents, guardian, or legal custodian.
- (d) Measurable objectives that address the

identified problems and needs.

(e) Services and treatment to be provided, t include:

- 1. Type of services or treatment.
- 2. Frequency of services or treatment
- 3. Location.
- 4. Accountable service providers or staff.
- (f) Timeframes for achieving objectives.

(5) Upon receipt of the plan, the child and family shall acknowledge their position by accepting or rejecting the services and provisions in writing. If the plan is accepted, it shall be implemented as soon as is practicable.

(6) A case manager shall be designated by the case staffing committee to be responsible for implementing the plan. The case manager shall periodically review the progress towards achieving the objectives of the plan in order to:

(a) Advise the case staffing committee of the need to make adjustments to the plan; or

(b) Terminate the case as indicated by successful or substantial achievement of the objectives of the plan.

(7) The parent, guardian, or legal custodian may convene a meeting of the case staffing committee, and any other member of the committee may convene a meeting if the member finds that doing so is in the best interest of the family or child. A case staffing committee meeting requested by a parent, guardian, or legal custodian must be convened within 7 days, excluding weekends and legal holidays, after the date the department's representative receives the request in writing.

(8) Within 7 days after meeting, the case staffing committee shall provide the parent, guardian, or legal custodian with a written report that details the reasons for the committee's decision

to recommend, or decline to recommend, that the department file a petition alleging that the child is a child in need of services.

History.—s. 8, ch. 87-133; s. 9, ch. 91-45; s. 19, ch. 95-267; s. 9, ch. 95-280; s. 4, ch. 96-369; s. 24, ch. 96-398; s. 98, ch. 97-238; s. 7, ch. 97-281.

Note.—Former s. 39.426.

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**984.151 Truancy petition; prosecution; disposition.—**

(1) If the school determines that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period pursuant to s. 1003.26(1)(b), or has had more than 15 unexcused absences in a 90-calendar-day period, the superintendent of schools may file a truancy petition.

(2) The petition shall be filed in the circuit in which the student is enrolled in school.

(3) Original jurisdiction to hear a truancy petition shall be in the circuit court; however, the circuit court may use a general or special master pursuant to Supreme Court rules. Upon the filing of the petition, the clerk shall issue a summons to the parent, guardian, or legal custodian of the student, directing that person and the student to appear for a hearing at a time and place specified.

(4) The petition must contain the following: the name, age, and address of the student; the name and address of the student's parent or guardian; the school where the student is enrolled; the efforts the school has made to get the student to attend school; the number of out-of-school contacts between the school system and student's parent or guardian; and the number of days and dates of days the student has missed school. The petition shall be sworn to by the superintendent or his or her designee.

(5) Once the petition is filed, the court shall hear the petition within 30 days.

(6) The student and the student's parent or

guardian shall attend the hearing.

(7) If the court determines that the student did miss any of the alleged days, the court shall order the student to attend school and the parent to ensure that the student attends school, and may order any of the following: the student to participate in alternative sanctions to include mandatory attendance at alternative classes to be followed by mandatory community services hours for a period up to 6 months; the student and the student's parent or guardian to participate in homemaker or parent aide services; the student or the student's parent or guardian to participate in intensive crisis counseling; the student or the student's parent or guardian to participate in community mental health services if available and applicable; the student and the student's parent or guardian to participate in service provided by voluntary or community agencies as available; and the student or the student's parent or guardian to participate in vocational, job training, or employment services.

(8) If the student does not successfully complete the sanctions ordered in subsection (7), the case shall be referred to the case staffing committee under s. 984.12 with a recommendation to file a child-in-need-of-services petition under s. 984.15.

(9) The parent, guardian, or legal custodian and the student shall participate, as required by court order, in any sanctions or services required by the court under this section, and the court shall enforce such participation through its contempt power.

History.—s. 75, ch. 99-398; s. 24, ch. 2000-235; s. 1048, ch. 2002-387.

## **Section B:**

# **Florida State Board of Education Rules Pertaining to Special Programs**



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-1

### Finance and Administration

#### **6A-1.014 Expenditure of Funds in Programs and Schools Where Generated.**

Compliance with the expenditure requirements as set forth in Section 237.34(3), Florida Statutes, shall be measured by the criteria set forth in subsections (1), (2) and (3) of this rule.

(1) Revenue generated by membership represents the product of the following six (6) factors and any adjustments by the Department for program ceilings or prior year adjustments:

- (a) The number of full-time equivalent students for each program funding category,
- (b) The cost factor for each program funding category,
- (c) The base student allocation
- (d) The district cost differential,
- (e) Other components as funded by the annual appropriations item for the Florida Education Finance Program (FEFP), and
- (f) The proration factor, if it is necessary to prorate program earnings to available revenue.

(2) Eligible expenditures as used herein include all school level direct and indirect expenditures of the general fund exclusive of expenditures for recreational and enrichment programs, community services not funded under the FEFP, land, land improvement, buildings, and remodeling. Eligible expenditures are also to include expenditures for food services in the special revenue funds. Eligible expenditures for food services shall be limited by the amount of state and local tax support for food services.

(3) The identification of cost is based on the dimensions of fund, function, object, and facility. School level costs are distinguished from district level costs as follows:

- (a) School level cost.
  1. Salaries and fringe benefits of teachers,
  2. Salaries and fringe benefits of other instructional personnel,
  3. Salaries and fringe benefits of substitutes,
  4. Salaries and fringe benefits of principals and other administrative personnel,
  5. Salaries and fringe benefits of pupil personnel staff working with pupils,
  6. Salaries and fringe benefits of other support staff in the school,
  7. School staff travel,
  8. Supplies and materials used in the school center,
  9. Maintenance for the school,
  10. Utilities for the school,
  11. Equipment, audio-visual materials and library books for the school,
  12. Library and audio-visual materials processing and film rentals,
  13. Educational television for instructional purposes,
  14. Staff training for school level instructional and non-instructional personnel,
  15. Data processing for student oriented applications,

16. Curriculum coordinators assigned to the school,
17. School building related insurance,
18. Printing of instructional and other school use materials,
19. Warehousing and distribution of materials used at the school,
20. Transportation costs other than district level administration of the activity,
21. Food service costs other than district level administration of the activity,
22. All other costs of a school level nature.
- (b) District level costs.
  1. Board expense,
  2. Salaries and fringe benefits of superintendent and staff,
  3. Salaries and fringe benefits of other district staff including subject matter and grade level coordinators, consultants, or supervisors, as well as the district level supervisors or directors of transportation, food service, maintenance and operations,
  4. Salaries and fringe benefits of other district support personnel,
  5. Travel of district level personnel,
  6. Supplies and materials used in district offices,
  7. Bonds and general liability insurance,
  8. Maintenance for district offices,
  9. Utilities for district office,
  10. Equipment for district level services,
  11. All other costs of a district level nature.

Specific Authority 229.053(1), 237.34(1) FS. Law Implemented 237.34 FS. History - New 7-20-74, Amended 9-5-74, Repromulgated 12-5-74, Amended 4-14-76, 7-12-77, Formerly 6A-1.14, Amended 6-10-87.

#### **6A-1.0141 Categorical Program Funds.**

Categorical program funds, identified in Section 236.081, Florida Statutes, or any other earmarked funds allocated to a school district shall be expended only in the program for which funds are provided. Any such funds, except those categorical program funds provided through contract or grant for a specific period of time, not expended by a school district as of the close of a fiscal year shall be carried forward into the following fiscal year for the same categorical purpose.

Specific Authority 229.053 FS. Law Implemented 236.081, 237.01 FS. History - New 10-31-74, Repromulgated 12-5-74, Amended 4-8-75, Formerly 6A-1.141.

#### **6A-1.0404 Zero Tolerance for School Related Violent Crime.**

(1) It is essential that schools be safe and orderly to provide environments that foster learning and high academic achievement. Goal Five of the state education goals (Section 229.591(3)(e), Florida Statutes) calls for communities to provide an environment that is drug-free and protects students' health, safety, and civil rights. The goal

emphasizes the personal responsibility of students and the necessity of involving all stakeholders, including parents, in achieving this goal. Although education and prevention are the preferred means of achieving safe schools, there must be a clear statement of policy that violence in schools will not be permitted. This rule implements the State Board of Education's zero tolerance policy on school violence, crime, and the use of weapons as part of a comprehensive approach to reducing school violence and crime. This policy requires school districts to:

(a) Invoke the most severe consequences provided for in the Code of Student Conduct (Section 230.23, Florida Statutes) in dealing with students who engage in violent criminal acts on school property, on school sponsored transportation, or during school sponsored activities;

(b) Notify a local law enforcement agency when an adult or a student commits the offenses listed in subsection (2) of this rule, on school property, on school sponsored transportation, or at school sponsored activities;

(c) Adopt a process for facilitating active communication and cooperation between schools and law enforcement agencies, the Department of Health and Rehabilitative Services, and the Department of Juvenile Justice in sharing information that will help school officials make the best decisions regarding students' educational services and placement;

(d) Assist teachers and other school personnel, consistent with district school board policies and Code of Student Conduct, to act decisively and effectively when dealing with violent and disruptive youth.

(2) Each school district shall review its Code of Student Conduct and amend the Code, if necessary, to ensure that students found to have committed the following offenses on school property, school sponsored transportation, or during a school sponsored activity shall receive the most severe consequences provided for by school board policy:

(a) homicide (murder, manslaughter);

(b) sexual battery;

(c) armed robbery;

(d) aggravated battery;

(e) battery or aggravated battery on a teacher or other school personnel;

(f) kidnapping or abduction;

(g) arson;

(h) possession, use, or sale of any firearm; or

(i) possession, use or sale of any explosive device.

(3) Prior to taking such action against any student, the school board shall ensure that appropriate due process procedures are followed. If a student committing one of the offense outlined in subsection (2) of this rule is identified as disabled and participating in a program for exceptional students, then school personnel shall follow procedures in Rule 6A-6.0331, FAC. This provision shall not be construed to remove a school board's discretion in cases where mitigating circumstances may affect decisions on disciplinary action.

(4) Each school board shall adopt a zero tolerance policy on school violence and ensure that all students and their families are aware of this policy. Such communica-

tions to families shall be consistent with equal access provisions of subsection (2) of Rule 6A-6.0908, FAC. The school board shall ensure that all school personnel are aware of the contents of this rule and the school board's zero tolerance policy on school violence.

(5) School boards may assign more severe consequences than normally authorized for violations of the Code of Student Conduct when the offender appears motivated by hostility toward the victim's real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.

(6) School official shall ensure that local law enforcement authorities are notified as soon as possible when one of the offenses listed in subsection (2) of this rule is committed on school property, on school sponsored transportation, or during a school sponsored activity. Additionally, if the offense involves a victim, school officials shall notify the victim and the victim's parents or legal guardian if the victim is a minor, of the offense and of the victim's right to press charges against the offender. School personnel shall cooperate in any investigation or other proceedings leading to the victim's exercise of rights as provided by law.

(7) The school principal shall monitor the administration of discipline of students to ensure that discipline is administered equitably without regard to real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability. Annually, the principal shall review school discipline data with the school advisory council in developing school improvement plans to maintain a safe and healthy school environment that protects the civil rights of all students.

(8) The authority of the teacher and other instructional personnel to discipline violent and disruptive students shall be consistent with the provisions of the Code of Ethics (Rule 6B-1.001, FAC.) and the Principles of Professional Conduct of the Education Profession in Florida (Rule 6B-1.006, FAC.) school districts Code of Student Conduct, and schools' policies. Goals Five and Six of Blueprint 2000 address the significance of the school providing an environment which promotes good health and is free of violence, weapons, hazards, vandalism, substance abuse, and disruptive influences. Within these parameters, the teacher and other instructional personnel shall have the authority to undertake any of the following alternatives in managing student behavior and in ensuring the safety of all students in their classes and schools:

(a) Create and maintain positive learning environments in which students are actively engaged in learning, social interaction, and self-motivation;

(b) Establish classroom rules of conduct;

(c) Make reasonable efforts to protect the student from conditions harmful to learning, mental and physical health, and safety (paragraph (3)(a) of Rule 6B-1.006, FAC.);

(d) Establish and implement consequences for infractions of classroom rules;

(e) Assist in enforcing the Code of Student Conduct and school rules on school property, on school sponsored

transportation, and during school sponsored activities;

(f) Assist in educating students of their rights and responsibilities as contained in the Code of Student Conduct and school rules;

(g) As an early intervention, hold parent conferences to solicit support for positive behavior management;

(h) Utilize existing referral and assessment procedures to determine the violent and disruptive student's need for additional services and special programs;

(i) If the violent and disruptive student has been identified as having disabilities and is currently enrolled in an exceptional student education (ESE) program, the teacher and other instructional personnel apply the provisions of Rule 6A-6.0331, FAC.;

(j) Collaborate with school resource officers, student assistance personnel, and other student services personnel in identifying services for violent and disruptive students;

(k) Have violent and disruptive students temporarily removed from the classroom or area of supervision for behavior management intervention;

(l) Inform a student's parent or guardian within twenty-four (24) hours after the student is referred for violent or disruptive behavior;

(m) When necessary, use reasonable force to protect themselves, students and other adults from violent acts; and

(n) Press charges as authorized in Section 231.06, Florida Statutes, if a crime has been committed against the teacher or other instructional personnel on school property, on school sponsored transportation, or during school sponsored activities.

(9) Teachers and other instructional personnel have responsibilities for the safety of students and others as described in Rules 6B-1.001 and 6B-1.006, FAC.

(10) School board policies shall allow, and school administrators shall provide, the following upon request by school personnel:

(a) Information as to the disposition of their referrals to the administration for violation of classroom or school rules;

(b) Assistance in behavior management if student(s) becomes uncontrollable or in case of emergency; and

(c) Training and other assistance to improve skills in behavior management, violence prevention, conflict resolution, and related areas.

(11) Upon receipt of notification from law enforcement, the Department of Juvenile Justice, the Office of the State Attorney, or the court system that a public school student has had certain types of contact with the juvenile justice system, the superintendent or designee, within twenty-four (24) hours of such notice, shall provide information on the nature of the contact to the principal of the student's school of enrollment. The principal or designee, within twenty-four (24) hours of such notice, shall provide such information to student services personnel, school resource officers, the school student assistance coordinator (if applicable), and the student's immediate teachers. Immediate teachers are those in whose courses or classrooms the student in question is currently enrolled. The above notification is required if the public school student has:

(a) Been taken into custody for a delinquent act, a

violation of law which would be a felony if committed by an adult, or a crime of violence;

(b) Been charged with a felony or a delinquent act that would be a felony if committed by an adult;

(c) Been adjudicated delinquent for an offense that would be a felony if committed by an adult;

(d) Had adjudication withheld for a delinquent act that would be a felony if committed by an adult;

(e) Been found guilty of a felony.

(12) The principal or director of an off-site program in which the student may be assigned shall assure that the information on that student does not become a part of the student's permanent record and is not shared with school personnel who do not have a need to know. In sharing the information, all school personnel shall adhere to confidentiality provisions contained in applicable state and federal laws and regulations.

(13) The principal or other authorized school official may use a student's juvenile justice information, in conjunction with other relevant information, to review a student's current educational placement and need for services, and to protect the safety of other students and school personnel. Such placement decisions shall be made in accordance with school board policies and state laws and regulations governing the placement alternative.

(14) Following appropriate due process procedures, a student charged with a felony or delinquent act that would be a felony if committed by an adult, whether it occurred on or off the school property, may be assigned to an alternative program or receive alternative educational services. Such assignment may be made upon the determination that the student is eligible according to federal or state program criteria, and:

(a) The nature of the offense is such that the student poses a threat to the safety of other students or personnel at school;

(b) The student's safety is at risk by remaining in school with other students; or

(c) An alternative education placement will better meet the educational, emotional, and social needs of the student.

(15) If a principal has reason to believe that a student may have a criminal record, the principal is authorized to request and receive information on the criminal history of a public school student from a local law enforcement agency. Procedures for the request, receipt, maintenance, retention, and use of such information shall be specified in approved school board policies and shall be included in a cooperative agreement with an appropriate local law enforcement agency.

Specific Authority 229.053(1), 229.592(5) FS. Law Implemented 229.591(3), 229.592, 230.23(6)(c)(d), 230.335, 231.06, 232.26 FS., and Sections 126 and 136 through 143 of Chapter 94-209, Laws of Florida. History - New 1-2-95.

#### **6A-1.0451 Florida Education Finance Program Student Membership Surveys.**

(1) The Commissioner shall prescribe the methods for completing and reporting full-time equivalent student membership surveys and transported student membership surveys in each school district for the Florida education

finance program. The methods prescribed shall include but not be limited to the following:

- (a) Uniform dates for each survey within the fiscal year.
- (b) Instructions for completing the surveys.

(c) Instructions for reporting the data to the Department.

(d) Instructions for maintaining student records for audit purposes.

(2) The Commissioner shall have the authority to establish for any school district or school an alternate date for a full-time equivalent membership survey or transported student membership survey within nine (9) weeks of the regular statewide survey if evidence is submitted by the school district which indicates an abnormal fluctuation in student membership has occurred at the time of the statewide survey. The alternate date shall be established by the Commissioner prior to conducting the survey. In determining what constitutes an abnormal fluctuation, the Commissioner shall examine the historical trends in student membership and limit consideration to changes in which there is a variation in excess of twenty-five (25) percent in any school, or five (5) percent in the district between the membership count at the time of the statewide membership count and the alternate membership count due to factors such as major student boycotts; civil disturbances; in-migration or out-migration in agricultural, industrial, and federal installations or contractors; or providential causes beyond the control of the district school board.

(3) The Commissioner may approve an alternative to the instructions in paragraphs (b), (c), and (d) of subsection (1) of Rule 6A-1.0451, F.A.C., for a given district based on an emergency, a pilot study, or increased effectiveness and efficiency in data collection or reporting.

(4) During the year, at least four (4) full-time equivalent student membership surveys shall be conducted under the administrative direction of and on a schedule provided by the Commissioner. The second period and the third period full-time equivalent student membership survey for students in a program scheduled for one hundred eighty (180) school days shall each be equal to ninety, one hundred eightieths (90/180) of the school year. Students in a program scheduled for less than one hundred eighty (180) school days in any full-time equivalent student membership survey shall be a fraction of a full-time equivalent member as provided in Section 1011.61(1), F.S. The four (4) survey periods, insofar as practicable, shall be scheduled to take the extended school year, staggered school year, and other variations of the regular one hundred eighty (180) day school year into consideration. School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments which are submitted too late to be reviewed and included

in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments.

(5) For purposes of transportation, students with disabilities under Section 1011.68(5), F.S., shall be those students defined by Rule 6A-6.0301, F.A.C., as trainable or profoundly handicapped, hearing impaired, visually impaired or physically impaired who have been appropriately identified under the district procedures for providing special education for exceptional students.

(6) When passengers other than public school students in membership, grades K-12 and exceptional, are transported on a school bus at the same time public school students are transported to or from school, the bus route mileage required to transport students as authorized in Section 1011.68(2), F.S., shall be computed as follows:

(a) If the number of passengers other than public school students in membership, grades K-12 and exceptional, transported on a bus route exceeds five (5) percent of the manufacturer's rated seating capacity of the bus, the loaded bus route miles for that trip shall be adjusted by the percentage of passengers that are not public school students in membership, grades K-12 and exceptional.

(b) Bus miles traveled over a side route to load or unload passengers other than public school students in membership, grades K-12 and exceptional, and miles traveled transporting exclusively other passengers shall not be reported to or counted by the Department for the purpose of FEFP transportation funding.

(7) For students in all special programs, a student's full-time equivalent membership shall be reported in the respective special program cost factor prescribed in Section 1011.62(1)(c), F.S., when the student is eligible and is attending a class, course, or program which has met all of the criteria for the special program cost factor. In addition, when reporting program membership, each student shall be reported in the same special program category as reported in the full-time equivalent membership survey.

(8) ESE 135, Department of Juvenile Justice FTE School Funding Certification is hereby incorporated by reference and made a part of this rule. This form may be obtained from the Bureau of School Business Services, Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 1001.02(1) FS. Law Implemented 1011.61, 1011.62(1), 1011.68 FS. History—New 4-19-74, Amended 10-31-74, Repromulgated 12-5-74, Amended 6-1-75, 1-29-76, 4-12-78, 8-2-79, 2-4-81, 7-28-81, 4-27-82, 7-13-83, 7-10-85, Formerly 6A-1.451, Amended 3-12-86, 9-30-87, 10-31-88, 12-5-90, 10-26-94, 12-15-98, 3-24-08.

#### **6A-1.04513 Maintaining Auditable FTE Records.**

Each school district shall maintain documentation adequate to support the full-time equivalent student membership of the district. Such documentation shall include, but is not limited to, all student membership survey forms, all student attendance records, and all student schedule records. These records shall be maintained in auditable condition, shall be made available to the Department for auditing, and shall be kept for a period of three (3) years or

until the completion of audit by the Department, whichever period is longer.

Specific Authority 229.053(1), 229.565(2)(3) FS. Law Implemented 229.565(2)(3) FS. History - New 7-2-79, Formerly 6A-1.4513.

#### **6A-1.04514 Exceptional Student Membership in Mainstream Programs.**

(1) Eligibility. School districts are eligible to receive funds for exceptional students (excluding gifted students) who are reported in basic and vocational mainstream programs as defined in Section 236.081(1)(f), Florida Statutes, for the time these students are enrolled in the mainstream program when the conditions below are satisfied:

(a) The student must be assigned to and reported as enrolled in a special program for exceptional students as defined in Section 236.081(1)(c), Florida Statutes; and

(b) In accordance with the individual educational plan, the student must be assigned to a basic or vocational mainstream program for a period of time which is less than nine hundred (900) hours per school year, provided such student is furnished special services, aids, or equipment as defined in Subsection (2) of this rule.

(c) The physically impaired student, in accordance with the individual educational plan, must be assigned to a basic or vocational mainstream program on a part-time or full-time basis for a period of time not to exceed nine hundred (900) hours per school year, provided such student is furnished special services, aids, or equipment as defined as Subsection (2) of this rule.

(2) Special services, aids, and equipment. Items which qualify a student for the mainstream cost factor include:

(a) Consultative services, as defined in Rule 6A-6.0311(1)(a), FAC., to provide supplementary consultation from instructional or support service professionals. The purpose of consultation shall be to enable the mainstream teacher to provide course modifications consistent with Rule 6A-6.0312, FAC., or to employ behavior management strategies to meet the needs of the exceptional student in the mainstream classroom. Such consultation shall be regularly scheduled, based on a written plan, and occur at least monthly, and written documentation shall be maintained.

(b) Instructional aides or other support personnel assigned to assist individual exceptional students;

(c) Interpreters or notetakers;

(d) Adaptive equipment and materials, when the cost per year to the school district exceeds one-fourth of the base student allocation per student, for purchase or maintenance; and

(e) Facility adaptations and equipment modifications, when the cost per year to the school district exceeds one-fourth of the base student allocation per student, for purchase or maintenance.

(3) This rule shall be effective starting with the 1990-91 school year.

Specific Authority 229.053(1), 230.23(4)(m) FS. Law Implemented 230.23(4)(m), 236.081(1)(f) FS. History - New 9-19-90.

#### **6A-1.0452 Distribution of Florida Education Finance Program Funds.**

(1) The entitlement of current operations and transportation funds shall be distributed in amounts as nearly equal as practicable based upon distribution schedules developed by the Department. The Department may adjust the distribution of funds to the entitlement each district may reasonably expect to receive during the fiscal year.

(2) Each district shall be provided with its estimated Florida Education Finance Program prior to July 1 of each year. The estimated program shall be based on full-time equivalent student membership data, together with appropriate estimates and other relevant data affecting a district's entitlement.

(3) The results of the first, second and third period full-time equivalent student membership surveys shall be added to the estimated fourth period full-time equivalent student membership. A final estimate of each district's Florida Education Finance Program for current operations and transportation shall be made by April of each year and shall be used to make adjustments to the amount of funds distributed to the district for the remainder of the fiscal year.

(4) The fourth period full-time equivalent student membership survey shall be made prior to June 30, and used to adjust the fourth period estimate utilized in Subsection (3) above. As a result of this survey, any difference in the amount of a district's entitlement and the actual funds distributed shall be adjusted in the succeeding year.

Specific Authority 229.053(1) FS. Law Implemented 236.081 FS. History - New 2-18-74, Revised 6-17-74, 10-31-74, Repromulgated 12-5-74, Formerly 6A-1.452, Amended 8-30-88.

#### **6A-1.0453 Educational Program Audits.**

(1) The Commissioner may utilize staff of the Department to conduct audits of district compliance with statute and rules as requested by the Legislature or State Board of Education.

(2) The Auditor General is responsible for:

(a) Periodically examining and evaluating programs, records and procedures in each district which requests funding under the Florida Education Finance Program.

(b) Notifying the auditee of an upcoming audit and conducting an entrance briefing to explain the purpose, scope and schedule of the audit.

(c) Scheduling an exit briefing with the auditee at the completion of the examination to discuss the findings.

(d) Submitting to the auditee a list of findings which may be included in the audit report. The auditee shall submit to the Auditor General, within thirty (30) days after the receipt of the list of findings, his or her written statement of explanation or rebuttal concerning all the findings, including corrective action to be taken to preclude a recurrence of all findings.

(e) Preparing a written report incorporating the response of the auditee. The audit report shall be transmitted to the Commissioner with copies to the Deputy Commissioner for Finance and Operations and the Chancellor for K-12 Public Schools. The audit report shall specifically identify instances of:

1. Errors in the reported full-time equivalent membership by program category; and

2. Improper classification or placement of individual students assigned to educational alternative or exceptional student programs.

(3) Upon receipt of an official audit report, the Deputy Commissioner for Finance and Operations shall compute the amount of adjustment to the district's allocation of state funds necessary to compensate for the errors or deficiencies noted in subsection (2). In those instances where a student has been improperly classified or placed in an exceptional student program, and in those instances where a special program fails to meet the prescribed criteria, the adjustment shall be computed on the basis of the basic program cost factor for which each student qualifies. Except for adjustments made during the fiscal year in which the discrepancies occurred adjustments shall be limited to fund allocations and no changes shall be made in full-time equivalent membership data.

(4) The Deputy Commissioner for Finance and Operations, within forty-five (45) days of receipt of an official audit report and completion of any computation of adjustments required therein, shall provide an official notice to the district school board which shall include:

(a) A detailed analysis of the audit findings and the computation of all adjustments proposed to correct discrepancies;

(b) A statement citing the specific law or rule upon which the finding of each discrepancy is based, and the authority under which the adjustment is to be made; and

(c) An opportunity for the district to request a hearing, within sixty (60) days from date of the official notice, and prior to final action being taken. The district request for a hearing shall include the specific issues and schools.

(5) In the event a district notifies the Department of its desire for a hearing on the proposed adjustment, the Department shall respond within thirty (30) days, and then the Commissioner shall schedule an informal conference between all parties in an effort to explain and resolve any disputed findings and to arrive at an agreement between the Department and the district. The conference hearing shall be held within twelve (12) months of initial request. If, however, the parties are unable to hold an informal conference or to arrive at a satisfactory agreement within twelve (12) months of the initial request and the school district wishes to proceed with a formal hearing, the Commissioner shall request the Division of Administrative Hearings of the Department of Administration to assign a hearing officer, and the Department shall proceed with the hearing in the manner prescribed by Section 120.57, F.S.

(6) Following completion of the hearing, the recommended order of the hearing examiner shall be transmitted to the State Board. The State Board shall, following examination of the recommended order, adopt a final agency order as prescribed by Section 120.57, F.S.

(7) Upon receipt of the final agency order, the Deputy Commissioner for Finance and Operations shall compute the required adjustment, if any, to the district's allocation of state funds, make the adjustment in the aforementioned funds, and notify the district of the final action.

Specific Authority 1001.02(1) FS. Law Implemented 11.45, 1001.03(8), 1001.11(6), 1008.32, 1010.305 FS. History—New 2-25-76, Amended 10-30-78, 12-7-82, 6-28-83, 11-27-85, Formerly 6A-1.453, Amended 10-31-88, 3-15-90, 1-7-97, 7-5-01, 9-22-08.

#### **6A-1.0502 Noncertificated Instructional Personnel.**

In each school district there are persons who possess expert skill in or knowledge of a particular subject or talent but do not hold a Florida teaching certificate. These persons constitute an invaluable community resource for the education of the pupils in that district. Each school board or charter school governing board shall adopt such policies as are necessary to ensure that the principals and teachers of that district may utilize in an appropriate instructional capacity the services of such expert persons in the community. Such persons may serve as a nonpaid volunteer or as a paid member of the instructional staff to render instructional service in the individual's field of speciality but shall not be required to hold a Florida teaching certificate. The school board or charter school governing board policies for noncertificated instructional personnel shall include, but are not limited to, the following:

(1) Health and age. Health and age requirements shall be the same as those required for certificated instructional personnel.

(2) Employment procedures. Employment procedures shall be the same as those followed for certificated instructional personnel, except that noncertificated instructional personnel shall not be entitled to a contract as prescribed by Rule 6A-1.064(1), FAC.

(3) Personnel records. The personnel records of the district or charter school shall contain information considered necessary by the school board or charter school governing board to establish the speciality of the individual, and a statement of the instructional duties assigned to and performed by such person.

(4) Salary. The official salary schedule for instructional personnel shall include a salary schedule for full-time and part-time employed noncertificated instructional personnel.

(5) Assignment, suspension and dismissal. Procedures for the assignment, suspension, and dismissal of noncertificated instructional personnel shall be adopted and provided in writing to each such employee at the time of employment.

(6) Assessment of performance. Procedures for assessing the performance of duties and responsibilities by all noncertificated instructional personnel shall ensure that each such person adequately performs the duties assigned.

(7) Pupil welfare. Procedures for assuring that each noncertificated instructional person who at any time is expected to assume responsibility for the health, safety, and welfare of pupils possesses, in advance of assuming the responsibility, a clear understanding of state rules and district or charter school rules and policies relevant to instructional responsibilities. When assigned duties require knowledge of rules or policies of a special nature, the policies shall specify that the person occupying a specifically named position is responsible to ascertain that the person possesses, in advance of assuming the duties, the neces-

sary knowledge to perform such duties in a proper and reasonable manner.

(8) Instructional practices and policies. Procedures for assuring that each noncertificated instructional person who at any time is expected to assume responsibility for promoting pupil learning possesses, in advance of assuming this responsibility, a clear understanding of all state instructional practices and policies and district or charter school instructional practices and policies relevant to instructional responsibilities.

(9) In lieu of the requirements herein, the school board or charter school governing board may adopt special policies for those part-time personnel who are employed to teach no more than one hundred sixty (160) clock hours during a fiscal year.

(10) Notwithstanding the provisions of Rule 6A-1.0502(1) through (9), FAC., the school board or charter school governing board may employ noncertificated persons licensed by the State of Florida as occupational therapists or as physical therapists to render services to students in those areas covered by such license. The procedures for employment shall be the same as provided by law for certificated instructional personnel, and each person so employed shall be entitled to a written contract in the form prescribed pursuant to Rule 6A-1.064, FAC. Provided, however, that a noncertificated person employed to render services as an occupational therapist or as a physical therapist may not be assigned duties of an instructional nature that are not covered within the scope of the person's license as defined by law.

(11) Notwithstanding the provisions of Rule 6A-1.0502(1) through (9), FAC., the school board or charter school governing board may employ persons certified as audiologists or speech pathologists under Chapter 468, Part I, Florida Statutes, to render services to students in those areas covered by such certificate of registration. The procedures for employment shall be the same as provided by law for certificated instructional personnel, and each person so employed shall be entitled to a written contract in the form prescribed pursuant to Rule 6A-1.064, FAC. Provided, however, that a noncertificated person employed to render services as an audiologist or speech pathologist may not be assigned duties of an instructional nature that are not covered within the scope of the person's certificate of registration as defined by law.

(12) A noncertificated person employed pursuant to this section shall be accorded the same protection of the laws as that accorded the certificated teacher.

Specific Authority 1002.33(12), 1012.32, 1012.55(1) FS. Law Implemented 1002.33, 1012.32, 1012.55, FS. History - New 7-20-73, Amended 4-19-74, Repromulgated 12-5-74, Amended 6-9-81, 8-16-82, Formerly 6A-1.502, Amended 5-30-94, 5-25-04

### **6A-1.0503 Definition of Qualified Instructional Personnel.**

A qualified instructional person is defined as an instructional staff member who meets one (1) of the following conditions:

(1) Holds a valid Florida educator's certificate with the

appropriate coverage as provided for in the Course Code Directory as adopted by reference in Rule 6A-1.09441, FAC., or

(2) Is a selected noncertificated person employed under the provisions of Rule 6A-1.0502, FAC., or

(3) Holds a valid Florida educator's certificate with coverage other than that deemed appropriate by subsection (1) and has documented a highly qualified designation pursuant to 20 U.S.C. S. 7801(23), by a High, Objective, Uniform State Standard of Evaluation (HOUSSE) plan for the academic course assigned, or

(4) Holds a valid Florida educator's certificate with coverage other than that deemed appropriate by subsection (1) and does not meet the requirements of subsection (3) and has been approved by the school board or charter school governing board to teach out-of-field after determination that a teacher with appropriate certification coverage is not available. All evidence of such qualifications and approval must be reflected in the individual's official personnel record; provided, however, that such approval may be granted by the school board or charter school governing board only under one (1) of the following conditions:

(a) The individual is in the first year of employment in the out-of-field assignment and has not been granted, during any preceding year in the district or charter school, approval by either the school board or the charter school governing board to be employed out-of-field in an area for which specific certification is otherwise required, or

(b) The individual has earned the following college credit or inservice training in an approved district add-on program or district approved subject content professional development program:

1. Out-of-field assignment other than ESOL (English to Speakers of Other Languages). A teacher out of field in a subject other than ESOL shall complete at least six (6) semester hours of college credit or the equivalent inservice toward the appropriate certification required in subsection (1) within one (1) calendar year from date of initial appointment to the out-of-field assignment and each calendar year thereafter until all requirements are completed for the appropriate subject certification;

2. Out-of-field assignment in only ESOL. A teacher out of field in only ESOL shall complete at least three (3) semester hours of college credit or the equivalent inservice toward the ESOL requirements within the first two (2) calendar years from date of initial assignment to a class with limited English proficient (LEP) students and three (3) semester hours or the equivalent inservice during each calendar year thereafter until all requirements for certification in ESOL are completed; or

3. Out-of-field assignment in ESOL and another subject. A teacher out of field in ESOL and another subject shall complete at least six (6) semester hours of college credit or the equivalent inservice toward the appropriate certification required by subsection (1) within one (1) calendar year from date of initial appointment to the out-of-field assignment and each calendar year thereafter until all requirements are completed for the appropriate subject certification. The training shall be completed in the following manner: During the first two years, at least three (3) of

the required twelve (12) semester hours or the equivalent inservice shall be completed in ESOL strategies. Beginning with the third year and each year thereafter, at least three (3) semester hours or the equivalent inservice shall be completed in ESOL strategies and at least three (3) semester hours in the other out-of-field subject requirements. When either all ESOL or all other out-of-field subject requirements are completed, a teacher shall comply with the schedule specified in subparagraph (4)(b)1. or 2. of this rule as appropriate until all requirements are completed for both ESOL and the other out-of-field subject.

4. Waivers of college credit or inservice training in an approved district add-on or subject content professional development program may be obtained by one of the following provisions:

a. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1., 2., or 3. of this rule, an individual shall provide a doctor's statement certifying to medical inability to earn such credit during the prescribed time;

b. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1. of this rule, the district superintendent or charter school chief administrator shall provide a statement certifying to extenuating circumstances beyond the control of the teacher to earn such credit during the prescribed time; or

c. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1. or the criteria in paragraph (4)(a) of this rule, the Commissioner of Education may grant to the district, individual school sites, or a charter school a waiver of the requirements for a period of one (1) year on a one-time basis. The district superintendent or charter school chief administrator shall, pursuant to school board or charter school governing board approval for such waiver, show extenuating circumstances that create a hardship for the district or teachers in meeting the specified requirements, or

(5) Is a nondegreed teacher of vocational education employed under the provisions of Section 1012.39, Florida Statutes. The requirements in Section 1012.39(1)(c)2.a. and b., Florida Statutes, must be satisfied prior to initial appointment to the position.

Specific Authority 1002.33(12), 1012.32, 1012.55(1), 1012.56(6) FS. Law Implemented 1002.33, 1012.05, 1012.32, 1012.39, 1012.55, 1012.56 FS. History - New 4-19-74, Repromulgated 12-5-74, Amended 9-8-76, Formerly 6A-1.503, Amended 10-30-90, 10-3-91, 2-18-93, 5-25-04, 3-1-05.

#### **6A-1.09401 Student Performance Standards.**

(1) Standards to benchmark student achievement serve as guides to best practices for local curriculum designers to help schools implement school improvement strategies to raise student achievement. Beginning with the 2007-2008 school year, the reading and language arts benchmarked standards for reading and language arts referenced below in paragraph (1)(a), describe what students should know and be able to do at grade level progression. Beginning with the 2008-2009 school year, the mathematics and science benchmarked standards for mathematics and science referenced below in paragraphs (1)(b) and

(c), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and for each of the mathematics content areas of: algebra, calculus, discrete mathematics, financial literacy, geometry, probability, statistics, and trigonometry, and each of the science content areas of: earth and space science, life science, physical science, and nature of science for grades 9-12. The benchmarked standards in paragraphs (1)(d)-(g) of this rule describe what students should know and be able to do at four progression levels (grades Pre-K-2, 3-5, 6-8, 9-12) in the subjects of the arts, health/physical education, foreign languages, and social studies. Sunshine State Standards for Special Diploma as incorporated by reference in paragraph (1)(h) of this rule describe what certain students with a disability should be able to do at three (3) proficiency levels (independent, supported, and participatory). Public schools shall provide appropriate instruction to assist students in the achievement of these standards. These standards and benchmarks are contained in the following publications and are hereby incorporated by reference and made a part of this rule.

(a) Sunshine State Standards – Reading and Language Arts, July 2007,

(b) Sunshine State Standards – Mathematics, 2008,

(c) Sunshine State Standards – Science, 2008,

(d) Sunshine State Standards – Social Studies, 1996,

(e) Sunshine State Standards – Foreign Languages, 1996,

(f) Sunshine State Standards – The Arts, 1996, and

(g) Sunshine State Standards – Health/Physical Education, 1996, and

(h) Sunshine State Standards for Special Diploma, 1999.

Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325 West Gaines St., Tallahassee, Florida 32399-0400.

(2) Each district school board shall incorporate the Sunshine State Standards contained herein into the district Pupil Progression Plan.

(3) The Sunshine State Standards shall serve as the basis for statewide assessments.

Specific Authority 1001.02 FS. Law Implemented 1001.03 FS. History—New 6-18-96, Amended 9-28-99, 3-1-07, 7-25-07, 11-25-07, 4-14-08, 9-22-08.

#### **6A-1.0941 Minimum Student Performance Standards.**

State adopted minimum student performance standards approved by the State Board of Education are contained in the publications listed below which are hereby incorporated by this rule and made a part of the rules of the State Board of Education. Copies of these publications may be obtained from the Educational Products Distribution Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida, 32399 at a price to be established by the Commissioner but which shall not exceed actual cost.

(1) Minimum Student Performance Standards for Florida schools 1994-95 through 2002-2003, for beginning grades 3, 5, 8, and 11 — reading, writing, and mathematics

and for functional communication and mathematics skills for grade 11.

(2) Student performance standards for Florida Schools 1996-97 through 2001-2002, exceptional students — reading, writing, language, mathematics, and social and personal.

Specific Authority 229.565(1), 232.245 FS. Law Implemented 229.053(2)(a), 229.565(1), 229.57(3)(a)(c), 232.246(6)(a)(b) FS. History - New 4-28-77, Amended 5-24-79, 7-16-79, 4-10-80, 3-4-84, 5-24-84, 11-27-85, Formerly 6A-1.941, Amended 5-16-89, 5-16-90, 6-14-94, 9-28-99.

### **6A-1.09412 Course Requirements – Grades 6-12 Basic and Adult Secondary Programs.**

A course description directs district personnel by providing the essential content and course requirements for each course in grades 6-12 contained in the “Course Code Directory and Instructional Personnel Assignments” adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publications “2007-2008 Florida Course Descriptions for Grades 6-12/Adult, Basic Education,” and “2008 Supplement to the 2007-2008 Florida Course Descriptions for Grades 6-12/Adult, Basic Education” which are hereby incorporated by reference and made a part of this rule. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description. Copies of approved course descriptions may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 1001.03(1), 1011.62(1)(r) FS. Law Implemented 1001.42(7), 1003.42, 1011.62(1)(r) FS. History—New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-15-01, 12-17-02, 7-26-05, 11-21-05, 7-27-06, 1-18-07, 3-24-08.

### **6A-1.09414 Course Descriptions for Grades 6-12, Exceptional Student Education.**

A course description is a broad guideline which directs district personnel by providing specific instructional plans for a given subject area or area of study and which is consistent with the “Course Code Directory and Instructional Personnel Assignments” adopted in Rule 6A-1.09441, FAC. The document, “Florida Course Descriptions for Grades 6-12, Exceptional Student Education, 1999” is hereby incorporated by reference and made a part of the rules of the State Board. Copies of these documents may be obtained from the Educational Products Distribution Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, at a cost to be established by the Commissioner not to exceed actual cost.

(1) District school board variance authority. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description.

(2) Commissioner of Education waiver authority. The Commissioner of Education may approve a school’s waiver request submitted by a district school board, to allow the school to substitute locally approved course requirements

provided that locally approved requirements specified for the state approved course adequately address the major concepts/content and Sunshine State Standards for Special Diploma contained in the course description, and the waiver request fulfills the provisions of and as submitted in accordance with procedures specified in Section 229.592, Florida Statutes.

Specific Authority 229.565(1), 230.23(7) FS. Law Implemented 229.592, 230.23(7), 232.2454, 232.247, 233.09 FS. History - New 7-9-86, Amended 12-28-86, 12-13-88, 12-11-89, 11-12-91, 6-6-93, 10-18-94, 9-28-99.

### **6A-1.0943 Statewide Assessment for Students with Disabilities.**

(1) The Division of Public Schools and Community Education shall assure the inclusion of students with disabilities as defined by Section 228.041(18), Florida Statutes, in the statewide assessment program, develop the test instruments required herein and provide technical assistance to school districts in the implementation of the requirements of this rule including appropriate accommodations to instruments and statewide assessment procedures administered pursuant to Section 229.57, Florida Statutes. Students who are identified solely as gifted are not eligible for state assessment accommodations.

(a) The decision to exclude any student with a disability, as defined in Section 228.041(18), Florida Statutes, from statewide or district assessment programs is made by the Individual Educational Plan (IEP) team and recorded on the IEP. Students may be excluded from statewide or district assessment programs if the following criteria are met:

1. The student’s demonstrated cognitive ability prevents the student from completing required coursework and achieving the Sunshine State Standards as incorporated by reference in Rule 6A-1.09401, FAC., even with appropriate and allowable course modifications, and

2. The student requires extensive direct instruction to accomplish the application and transfer of skills and competencies needed for domestic, community living, leisure, and vocational activities.

(b) Students who are excluded from statewide or district assessment will be assessed through an alternate assessment procedure identified by the IEP team. The alternate assessment procedure shall be recorded on the student’s IEP.

(c) Students who are excluded from the state-required graduation test using the criteria in paragraphs (1)(a) and (b) of this rule will not be eligible for a standard high school diploma.

(2) Each school board shall utilize appropriate accommodations to the statewide assessment instruments and procedures, within the limits prescribed herein. Accommodations are defined as adjustments to the presentation of the assessment questions, method of recording examinee responses to the questions, schedule for administration of the assessment, or use of assistive devices to facilitate administration of the assessment. Statewide assessment accommodations may be used only if they do not alter the underlying content that is being measured by the assessment or negatively affect the assessment’s reliability

or validity. Accommodations shall be identified for each eligible student and recorded on the student's IEP or plan developed under Section 504 of the Rehabilitation Act. Allowable accommodations are those that have been used by the student in classroom instruction as long as the accommodations are within the limits specified in this rule. Such accommodations may include:

(a) Presentation. The student may be administered any statewide assessment through the following presentation formats:

1. Regular print versions of the test may be enlarged through mechanical or electronic means.
2. The district test coordinator may request large print versions.
3. Braille versions may be requested for students who use Braille materials. Some test items may be altered in format for Braille versions of the test as authorized by the Department. Test items that have no application for the Braille reader will be deleted as authorized by the Department. Student performance standards that cannot be assessed in the Braille format will be deleted from the requirements of Section 229.57, Florida Statutes.
4. Signed or oral presentation may be provided for all directions and items other than reading items. Reading items must be read by the student through visual or tactile means.
5. The student may use means to maintain or enhance visual attention to test items.
6. Presentation formats not covered by this rule may be requested through the Department of Education and will be provided, as appropriate, upon approval by the Commissioner of Education.

(b) Responding. The student may use varied methods to respond to the test, including written, signed and verbal response. Written responses may include the use of mechanical and electronic devices. A test administrator or proctor may transcribe student responses to the format required by the test. Transcribed responses must accurately reflect the response of the student, without addition or edification by the test administrator or proctor.

(c) Scheduling. The student may be administered a test during several brief sessions allowing frequent breaks during the testing sessions, within specifications of the test administration manual. Students may be provided additional time for the administration of the test.

(d) Setting. The student may be administered a test individually or in a small group setting. The student may be provided with adaptive or special furniture and special lighting or acoustics.

(e) Assistive devices. The student may use the following assistive devices typically used in classroom instruction.

1. If the purpose of the assessment requires complex computation, calculators may be used as authorized in the test administration manual. A calculator may not be used on assessments of basic computation as specified in the test administration manual.
2. Visual magnification and auditory amplification devices may be used. For students with visual impairments, an abacus may be used.

3. Technology may be used without accessing spelling or grammar-checking applications for writing assessments and without using speech output programs for reading items assessed. Other assistive technology typically used by the student in classroom instruction may be used provided the purpose of the testing is not violated. Implementation of assistive devices must assure that test responses are the independent work of the student. Unusual circumstances of accommodations through assistive devices must be approved by the Commissioner of Education before use.

(3) The preceding accommodations described in paragraphs (2)(a) through (e) of this rule are authorized, when determined appropriate by the school district superintendent or designee, for any student who has been determined to be an eligible student with disabilities pursuant to Section 228.041(18), Florida Statutes, and Rule 6A-6.0331, FAC., and has a current IEP, or who has been determined to be a student with a disability pursuant to Rule 6A-19.001(6), FAC. Satisfaction of the requirements of Rule 6A-1.0942, FAC., by any of the above accommodations shall have no bearing upon the type of diploma or certificate issued to the student for completing school.

(4) The need for any unique accommodations for use on state assessments not outlined in this rule must be approved by the Commissioner of Education.

(5) District personnel are required to implement the accommodations in a manner that ensures the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond or directing or leading the student to a particular response. In no case shall the accommodations authorized herein be interpreted or construed as an authorization to provide a student with assistance in determining the answer to any test item.

(6) The test scores of students with disabilities, as defined in Section 228.041(18), Florida Statutes, will be included in the state's accountability system as determined by the Commissioner of Education.

(7) Procedures for exemption from the assessment required for graduation with a standard high school diploma due to extraordinary circumstances of a student with a disability, as defined in Section 228.041(18), Florida Statutes, are specified in Rule 6A-1.09431, FAC.

Specific Authority 229.57(3)(11), 232.246(8)(9) FS. Law Implemented 229.57(3)(11), 232.246(8)(9) FS. History - New 9-12-78, Amended 3-4-84, Formerly 6A-1.943, Amended 6-12-90, 9-17-01.

### **6A-1.09431 Procedures for Special Exemption from Graduation Test Requirement for Students with Disabilities Seeking a Standard High School Diploma.**

Students with disabilities, as defined in Section 228.041(18), Florida Statutes, are eligible for consideration of a special exemption from the graduation test requirement under extraordinary circumstances that create a situation where the results of administration of the graduation test would reflect a student's impaired sensory, manual or speaking skills rather than the student's achievement.

Such circumstances are defined as physical conditions that affect a student's ability to communicate in modes acceptable through accommodation of the statewide test.

Extraordinary circumstances are events or conditions that prevent the student from physically demonstrating mastery of skills that have been acquired and are measured by the test. Learning process deficits and cognitive deficits do not constitute extraordinary circumstances. A request may be made for an exemption from any or all sections of the test required for high school graduation.

(1) The Commissioner may exempt a student with a disability as defined by Section 228.041(18), Florida Statutes, from meeting the testing requirement for high school graduation with a standard diploma, as specified in Section 229.57(3)(c), Florida Statutes.

(2) The procedure for consideration of this special exemption must originate with receipt of a written request from the district school superintendent at least one semester before the anticipated graduation date. This request must be due to extraordinary circumstances which would cause the results of the testing to reflect the student's impaired sensory, manual or speaking skills rather than the student's achievement. The Commissioner shall determine whether the exemption shall be granted based upon the documentation provided by the district school superintendent which shall include:

(a) Written description of the student's disabling condition, including a specific description of the student's impaired sensory, manual or speaking skills and the extraordinary circumstances for the exemption request;

(b) Written documentation of the most recent and other available re-evaluation or psychological reports and course transcript;

(c) Written description of the disability's effect on the student's achievement;

(d) Written description of accommodations or modifications provided in the student's high school course of study;

(e) Written evidence that the student has had the opportunity to learn the skills being tested, has been prepared to participate in the testing program and has been provided appropriate test accommodations as defined in Rule 6A-1.0943, FAC.; and

(f) Written evidence that the manifestation of the student's disability prohibits the student from responding to the written test even when appropriate accommodations are provided so that the result of the testing reflects the student's impaired sensory, manual or speaking skills rather than the student's achievement.

(g) Written description of academic accomplishments indicating mastery of skills assessed on the graduation test as described in Section 229.57(3), Florida Statutes.

(3) Upon receipt of the request for exemption, the Commissioner shall determine whether sufficient documentation has been provided and may request additional information.

(4) If the Commissioner determines that the criteria for an exemption have been met, the request for exemption from one or both parts of the test will be granted. Students granted a request for exemption from the graduation test must meet all other criteria for graduation with a standard diploma as outlined in Section 232.246, Florida Statutes

(5) Students who are not granted an exemption under this rule and who have not demonstrated mastery of the

skills measured by the test for graduation continue to be eligible for the provision of a free appropriate public education until the age of twenty-two (22).

(6) Students with disabilities who do not meet the graduation criteria for a standard high school diploma may be eligible for a special diploma as outlined in Rule 6-1.09961, FAC.

Specific Authority 229.57 (3) (c), 232.246 (9), FS. Law Implemented 229.57, 232.246 (9), F.S., 20 USC 1412(a)(1)(B). History - New 9-17-01.

#### **6A-1.09441 Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.**

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) The program in which the student is in membership shall be one of the programs listed in Section 1011.62(1)(c), Florida Statutes.

(2) The course or program in which the student is in membership shall be an educational activity which constitutes a part of the instructional program approved by the district school board.

(3) The student shall be under the supervision of an instructional staff member as defined in Rule 6A-1.0501, F.A.C.

(4) The course or program shall be listed in the "Course Code Directory and Instructional Personnel Assignments" for the year in which the student is in membership.

(5) The "Course Code Directory and Instructional Personnel Assignments 2008-2009," is hereby incorporated by reference and made a part of this rule. The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses and course descriptions for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved.

Specific Authority 1001.02(1), 1009.53(3), 1011.62(1)(r) FS. Law Implemented 1009.531, 1009.534, 1009.535, 1009.536, 1011.62(1) FS. History—New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-18-96, 7-17-97, 8-12-98, 5-3-99, 5-3-01, 10-15-01, 7-30-02, 4-21-05, 11-21-05, 7-27-06, 1-18-07, 5-19-08.

#### **6A-1.0955 Education Records of Pupils and Adult Students.**

(1) Purposes. This rule applies to education records maintained to facilitate the instruction, guidance, and educational progress of pupils and adult students in programs operated under the authority and direction of a district school board.

(2) Definitions. For the purposes of this rule, the following definitions shall be used:

(a) Education records. The term "education records" shall mean those records, files, documents and other materials as defined in Section 228.093(2), Florida Statutes, which contain information directly related to a pupil or an adult student, which are maintained by an educational institution or by a person acting for such institution, and which are accessible to other professional personnel for purposes listed in Rule 6A-1.0955(1), FAC. Information contained in education records shall be classified as follows:

1. Category A - permanent information: Verified information of educational importance which shall be retained permanently in the manner prescribed by Section 230.331(2), Florida Statutes.

2. Category B - temporary information: Verified information of educational importance which is subject to periodic review and elimination, when the information is no longer useful, in the manner prescribed by Section 230.331(3), Florida Statutes.

(b) Child. A child shall mean any person who has not reached the age of majority.

(c) Pupil. A pupil shall mean any child who is enrolled in any instructional program or activity conducted under the authority and direction of a district school board.

(d) Adult student. Adult student shall mean any person who has attained 18 years of age and is enrolled in any instructional program or activity conducted under the authority and direction of a district school board.

(3) Content of Category A records. The information on these records shall be kept current.

(a) The following information shall be maintained for each pupil or adult student on Form ESE-386, Grades 9-12 and Adult Permanent Record Card, Category A - Education Records, and Form ESE-392, Grades Pre-K - 5 Permanent Record Card Category A - Education Records and Grades 6-8 Permanent Record Card Category A - Education Records, effective June, 1987 which are hereby incorporated by reference and made a part of this rule.

1. Pupil's or student's full legal name.
2. Authenticated birthdate, place of birth, race and sex
3. Last known address of the pupil or student.
4. Names of the pupil's or student's parent or guardian.
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled, date withdrawn.
7. Courses taken and record of achievement, such as grades, units, or certification of competence.
8. Date of graduation or date of program completion.

(b) Category A information listed on Form ESE-386, Grades 9-12 and Adult Permanent Record Card Category A—Education Records, shall be maintained only for students who are enrolled in grades 9-12 and students enrolled in adult education programs which lead to a high school diploma.

(c) A district desiring to maintain the content for Category A records on a form other than Forms ESE-386 and ESE-392 may do so when approved by the Deputy Commissioner for Educational Programs. To receive approval, a

district must submit a copy of the proposed alternate form which shall include all data items classified as Category A information in Rule 6A-1.0955(3)(a), FAC., to the Deputy Commissioner for Educational Programs, explaining the reasons for requesting the use of an alternate form. The Deputy Commissioner for Educational Programs shall approve or disapprove the request in writing.

(d) One copy of Forms ESE-386 and ESE 392 may be obtained without cost from the Deputy Commissioner for Educational Programs, Department of Education, The Florida Education Center, Tallahassee, Florida 32399. Each district school board shall provide the copies required for use in the public schools of the district.

(e) School districts shall maintain sufficient information, to include social security number, on adult students enrolled in a postsecondary program so that they can be located after they have either withdrawn or completed a program of study.

(4) Content of Category B records. Each school board shall adopt policies which will assure accuracy of information maintained and provide for periodic review and elimination of information, no longer useful, in the manner prescribed by Section 230.331(3), Florida Statutes. These records may include but are not limited to the following information:

- (a) Health information.
- (b) Family background data.
- (c) Standardized test scores.
- (d) Educational and career plans.
- (e) Honors and activities.
- (f) Work experience reports.
- (g) Teacher comments.
- (h) Reports of student services, or exceptional student staffing committees, including all information required by Section 230.23(4)(m)7., Florida Statutes.
- (i) Correspondence from community agencies or private professionals.
- (j) Driver education certificate.
- (k) A list of schools attended.
- (l) Written agreements of corrections, deletions or expunctions as a result of meetings or hearings to amend educational records.

(5) Educational records do not include the information identified in Section 228.093(2)(e) 1-8, Florida Statutes.

(6) Each school board shall adopt a policy for educational records which shall include:

(a) Provisions for an annual written notice to inform the parent or guardian of pupils and adult students of their rights as defined in Section 228.093(3), Florida Statutes. The district shall develop alternative methods of notice for informing the parent or guardian of pupils, or adult students unable to comprehend a written notice in English. This notice shall include but is not limited to the following:

1. Right of access, right of waiver of access, right to challenge and hearing, and right of privacy; and
2. Notice of the location and availability of the district's policy on education records of pupils and adult students.

(b) Provisions for permitting the adult student or the parent or guardian of the pupil who is or has been in attendance in the school district to inspect and review the

education records of the adult student or pupil. The district shall comply with a request within a reasonable period of time, but in no case more than thirty (30) days after it has been made. The right to inspect and review education records under this paragraph includes the right to reasonable requests for explanation and interpretation of the records, and the right to obtain copies of the records. The school district shall presume that the adult student or either parent of the pupil has the right to inspect and review the education records of the pupil or adult student unless the agency or institution has been provided with evidence that there is a legally binding instrument or court order governing such matters as divorce, separation or custody which provides to the contrary.

(c) Provisions for adult students or the parent or guardian or pupils to exercise the right of waiver of access to confidential letters or statements. The waiver shall include but not be limited to access to confidential letters or statements. The waiver shall not be valid unless in writing and signed by the adult student or the parent or guardian of the pupil, as appropriate. The waiver may be revoked in writing with respect to actions occurring after the revocation. School districts may not require that adult students or the parent or guardian of pupils waive any of their rights under Section 228.093(3), Florida Statutes.

(d) A schedule of fees for copies of education records which shall not exceed the actual cost of reproduction of such records and shall not reflect the costs to retrieve the education records.

(e) A listing of the types and locations of education records maintained by the educational agency and the titles and addresses of the officials responsible for those records.

(f) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of pupils is not required. Written consent is not required for disclosures authorized in Section 228.093(3)(d)1-11, Florida Statutes.

(g) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of a pupil, as appropriate, is required. These provisions shall include but are not limited to the following:

1. The written consent required must be signed and dated and shall include:
  - a. Specification of the records to be disclosed;
  - b. The purposes of the disclosures; and
  - c. The party or class of parties to whom a disclosure is to be made.
2. Personally identifiable information shall be disclosed only on the condition that the party to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the adult student or the parent or guardian of the pupil, as appropriate. Personally identifiable information which is disclosed to an institution, agency, or organization may be used by its officers, employees and agents, but only for the purpose for which the disclosure was made.
3. Whenever written consent is required, school districts shall presume that the adult student or the parent or

guardian of the pupil, as appropriate, giving consent has the authority to do so unless the district has been provided with evidence that there is a legally binding instrument, or state law or court order governing such matters as divorce, separation, or custody which provides to the contrary.

4. A record shall be maintained of requests and disclosures of personally identifiable information from the education records. Records of requests and disclosures do not have to be maintained when the disclosure is to the adult student or to the parent or guardian of the pupil, when the disclosure is based on written consent, when the disclosure is directory information, or when the disclosure is to other school officials with a legitimate educational interest. The record of requests for disclosure shall include but are not limited to the following:

- a. The parties who have requested or obtained personally identifiable information; and
- b. The legitimate interests of the persons requesting or obtaining the information.

(h) Criteria for determining which parties are "school officials" and what the district considers a "legitimate educational interest."

(i) Provisions for disclosure of personally identifiable information in health and safety emergencies criteria for determining the existence of emergencies involving health or safety shall include but are not limited to the following:

1. The seriousness of the threat to the health or safety of the pupil or adult student or other individuals;
2. The need for the information to meet the emergency;
3. Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and
4. The extent to which time is of the essence in dealing with the emergency.

(j) Provisions for disclosure of directory information as defined in Section 228.093(2)(e), Florida Statutes. These shall include but are not limited to the following:

1. At least an annual public notice of the categories of personally identifiable information designated as directory information;
2. The right of the adult student or the parent or guardian of a pupil to refuse to permit the designation of any or all of the categories of personally identifiable information with respect to that adult student or pupil;
3. The period of time within which the adult student or the parent or guardian must inform the district, in writing, that such personally identifiable information is not to be designated directory information with respect to that adult student or pupil; and
4. Provisions for granting requests for lists of data specified as directory information.

(k) Provisions for challenging the content of any record which the adult student or the parent or guardian of a pupil believe to be inaccurate, misleading or a violation of their privacy and for providing an opportunity for correction, deletion or expunction of such information. These provisions shall include the following:

1. Informal meetings as defined in Section 228.093(3)(c), Florida Statutes.
2. A hearing, which may be requested by either party,

when agreement cannot be reached in the informal meeting. The provisions for the hearing shall include but not be limited to the provisions in Section 228.093(3)(c)1-5, Florida Statutes.

3. An agreement which shall be reduced to writing, signed and dated by the adult student or the parent or guardian of the pupil and designated school officials if records are to be corrected, deleted or expunged. The agreement shall only indicate that the record has been corrected, deleted or expunged.

4. A right to place a statement in the education record, by the adult student or parent or guardian of the pupil, if the decision of the hearing is that the records are not inaccurate, misleading or otherwise in violation of privacy. The statement may comment on the information in the education record and set forth any reasons for disagreeing with the decision.

(7) Procedures for transfer of education records.

(a) Upon request of officials of educational institutions for transfer of an adult student's or a pupil's records, school officials shall make a reasonable attempt to notify the adult student or the parent or guardian of the pupil, as appropriate, of the transfer of the records at the last known address of the adult student or of the parents or guardians of the pupil. This notice shall not be necessary if the adult student or the parent or guardian of the pupil initiate the transfer request, or when the district includes in its policies that it forwards education records on request to a school in which an adult student or a pupil seeks or intends to enroll.

(b) The transfer of records shall be made immediately upon written request of an adult student, a parent or guardian of a pupil or a receiving school. The principal or designee shall transfer a copy of all Category A and Category B information and shall retain a copy of Category A information; however, student records which are required for audit purposes for programs listed in Section 229.565(3), Florida Statutes, shall be maintained in the district for the time period indicated in Rule 6A-1.04513, FAC.

(c) The transfer of adult student or pupil education records shall not be delayed for nonpayment of a fee or fine assessed by the school.

(8) Security of education records of pupils or adult students.

(a) The school principal or designee shall be responsible for the privacy and security of all pupil or adult student records maintained in the school.

(b) The superintendent of schools or designee shall be responsible for the privacy and security of all pupil or adult student records that are not under the supervision of a school principal.

Specific Authority 228.093(3), 229.053(1), 232.23(3) FS. Law Implemented 228.093, 229.559, 229.8075, 230.23(4)(m)7., 230.331(2)(3), 232.23, 239.113 FS. History-New 4-11-70, Repromulgated 12-5-74, Revised 6-1-75, Amended 10-7-75, 2-21-77, Amended 3-1-78, 5-24-81, Formerly 6A-1.955, Amended 6-17-87, 1-2-95.

### **6A-1.099 Cooperative Projects and Activities.**

(1) District school boards are authorized to enter into cooperative or joint projects and activities as provided in Section 230.23(4)(j), Florida Statutes; provided, however, that any disagreements which cannot be satisfactorily re-

solved by the parties to such agreements may be referred to the Commissioner whose decision shall be binding on all cooperating boards.

(2) District school boards are authorized to establish educational consortia which are designed to provide joint programs and services to cooperating school districts.

(a) Establishment of consortium. Cooperating districts shall establish the consortium by a resolution of each school board. A district school board choosing to join a consortium shall by resolution declare its participation by setting forth at least the following:

1. The specific needs of the district which will be met by consortium activities.

2. The services to be received by the district

3. A beginning date of entry into the agreement.

4. A termination date for the agreement or an annual option renewal date when the objectives to be achieved exceed one (1) fiscal year.

5. Amounts of funds to be paid annually for the services received or the specific method of computation used to determine such amounts.

(b) District of record. Cooperating districts shall designate a district of record for contractual and reporting purposes. The school board of the district of record shall be the responsible entity for contracting for services and materials necessary for fulfillment of consortium programs and services to member districts. The district of record shall provide a monthly financial report to member districts and shall separately report on the financial status of the consortium in the annual financial report of the district to the Commissioner. The district of record shall be entitled to reasonable compensation for accounting and other services performed. It may also be compensated for use of physical facilities.

(c) Consortium board of directors. The superintendent of schools of cooperating districts or his/her designee shall constitute the consortium board of directors. The consortium board of directors shall determine the products and services to be provided by the consortium; however, in all contractual matters the school board of the district of record must act on proposed actions of the consortium. The board of directors shall establish a uniform method for participating districts to evaluate services.

(d) Settlement of disagreements. In the event a controversy arises and agreement cannot be reached after the consortium is formed and operating, the matter may be referred jointly by the cooperating school boards or by any individual board to the Commissioner. The Commissioner's decision shall be binding on all school boards.

(e) Accounting. All financial transactions of the consortium are to be accounted for separately by the district of record in the appropriate proprietary fund as determined by generally accepted accounting principles. Income to the fund will be composed of payments from cooperating districts, including the district of record, receipts from goods and services provided non-member districts, and the receipts from grants to the consortium. Cooperating districts, including the district of record, may make payments to the consortium in advance of delivery of services and products. Disbursements from the fund shall include

payments for products and services, including agreed-upon services furnished by the district of record, and any refunds due cooperating districts. All transactions with the district of record shall be recorded in the fund. Accounts used shall be those prescribed in the publication entitled, Financial and Program Cost Accounting and Reporting for Florida Schools, as incorporated by reference in Rule 6A-1.001, FAC.

(f) Petty cash. The school board of the district of record may authorize a petty cash fund for the consortium in an amount commensurate with the established need, but not to exceed three hundred dollars (\$300).

(g) Employment of personnel. The consortium board of directors shall recommend establishment of positions and individuals for appointment to the district of record. Formal recommendation and approval of personnel shall be accomplished in accordance with statutory authority. Personnel shall be employed under the salary schedule and personnel policies of the district of record and shall be deemed to be public employees of the district of record. Where personnel are employed in an instructional capacity, contract status shall be consistent with provisions of Section 231.36(9), Florida Statutes. For the purpose of determining the ratio of administrators to teachers as required in Section 229.565(2)(f), Florida Statutes, personnel of the consortium shall be counted on a prorated basis among member districts based on previous final unweighted FTE.

(h) Physical property. Ownership and control of any physical property shall be vested in the district of record. The district of record may acquire such property and charge the consortium a negotiated use charge. The consortium may advance all or part of the acquisition price to the district of record.

(i) Allocation of common costs. Common costs are defined as those costs which are applicable to all consortium activities or to all users of certain products or services. The consortium board of directors shall recommend to the district of record equitable bases for the allocation of common costs. These bases shall be used in billing cooperative districts for common costs or in establishing pricing for products and services. The consortium board of directors shall recommend pricing adjustments as necessary to achieve break-even status.

Specific Authority 229.053(1), 230.23(4)(j),(12) FS. Law Implemented 229.053(2)(h)(i)(j), 230.23(4)(j),(12) FS. History - New 2-20-64, Amended 9-17-72, Repromulgated 12-5-74, Amended 6-9-81, 9-27-84, Formerly 6A-1.99, Amended 5-26-02.

**6A-1.0995 Form of High School Diplomas and Certificates of Completion.**

Pursuant to Sections 1003.43 and 1003.438, Florida Statutes, the form of the Standard Diploma, the Special Diploma, the Certificate of Completion and the Special Certificate of Completion shall contain the wording and be in the form prescribed herein.

(1) Standard Diploma:

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)  
having satisfactorily completed all requirements of law and standards for high school graduation as prescribed by the State Board of Education and the District School Board is hereby awarded this

DIPLOMA

by order of the \_\_\_\_\_ County District School Board  
(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

(2) Special Diploma:

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)

having satisfactorily completed all requirements of law and standards for high school graduation prescribed for exceptional students by the State Board of Education and the District School Board is hereby awarded this

DIPLOMA

by order of the \_\_\_\_\_ County District School Board  
(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

(3) Certificate of Completion:

Name of School  
City, State  
Florida Seal

This certifies that  
(Name of Student)

having completed the minimum number of credits for high school graduation and other applicable requirements prescribed by the rules of the District School Board, is hereby awarded this

CERTIFICATE OF COMPLETION

by order of the \_\_\_\_\_ County District School Board  
(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

(4) Special Certificate of Completion:

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)

having completed the minimum number of credits for high school graduation prescribed for exceptional students and other applicable requirements prescribed by the rules of the District School Board, is hereby awarded this

CERTIFICATE OF COMPLETION

by order of the \_\_\_\_\_ County District School Board  
(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

(5) School boards electing to award differentiated diplomas in lieu of the Standard Diploma as authorized in Section 1003.43, Florida Statutes, may place on the Standard Diploma a seal to indicate the type of differentiation. Seals given in recognition of outstanding scholastic achievement may also be placed on the face of the Standard Diploma.

(6) Each district school board shall produce or have produced the Diplomas and Certificates of Completion in the quantity and as needed to be awarded to the students in the public schools of that district. Any person producing copies shall, pursuant to Section 15.03(3), Florida Statutes, and Chapter 1C-5, F.A.C., secure approval from the Department of State to print the State Seal on such copies.

(7) The Commissioner is authorized, upon written request from any district school board, to approve modification in the form or format of the diplomas or certificates prescribed herein; however, such modification shall not substantively alter the content or the wording of the diplomas or certificates.

Specific Authority 1001.02, 1003.43, 1003.438 FS. Law Implemented 15.03(3), 1001.02, 1003.43, 438 FS. History—New 11-14-78, Amended 6-9-81, Formerly 6A-1.995, Amended 4-3-90.

**6A-1.09961 Graduation Requirements for Certain Students with Disabilities.**

Each school board shall, pursuant to Section 1003.438, Florida Statutes, prescribe special requirements for graduation for students who have been properly identified as educable mentally handicapped, trainable mentally handicapped, hearing impaired, specific learning disabled, emotionally handicapped, profoundly handicapped, physically impaired, or language impaired. The school board shall make provision for each student to use basic, vocational, and exceptional student education courses

as appropriate for meeting graduation requirements. Any such student completing the special requirements shall be awarded a Special Diploma in the form prescribed by subsection 6A-1.0995(2), F.A.C.

(1) Special Diploma Options. School boards may award Special Diplomas based on two (2) options.

(a) One option shall include procedures for determining and certifying mastery of student performance standards for a special diploma for students who enter ninth grade in or before school year 1998-1999 as prescribed in subsections (3)-(11) of this rule; or higher levels of student performance standards for students with disabilities adopted by the district school board; and minimum number of course credits specified by the district school board. For students entering ninth grade in or after 1999-2000 mastery is determined as indicated in subsections (12)-(13) of this rule.

(b) The second option shall include procedures for determining and certifying mastery of demonstrated employment and community competencies in accordance with subsection (14) of this rule.

(2) Diploma procedures. Each school board shall develop procedures for ensuring that students may select and move between the Special Diploma options prescribed in subsection (1) of this rule, if both options are provided by the school district, and between courses of study leading to Standard or Special Diplomas, as appropriate.

(a) The individual educational plan (IEP) committee shall document whether the student is pursuing a course of study leading toward a Standard or Special Diploma on the IEP developed during the student's eighth grade year, or the IEP developed during the school year of the student's fourteenth birthday, whichever occurs first. This decision shall be reviewed annually.

(b) Nothing contained in this rule shall be construed to limit or restrict the right of student with a disability solely to a Special Diploma. The parents of each student eligible for a Special Diploma for students shall be notified through the IEP process of the options available under this rule.

(c) Special Diploma requirements shall be included in the district pupil progression plan adopted pursuant to Section 1008.25, Florida Statutes.

(3) Educable mentally handicapped. Student performance standards for students identified as educable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level IV; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as educable mentally handicapped.

(4) Trainable mentally handicapped. Student performance standards for students identified as trainable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level III; Writing, Level IV; Language, Level III; Mathematics, Level III; and Social and Personal, Level III as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as trainable mentally handicapped.

(5) Hearing impaired. Student performance standards for students identified as hearing impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level IV; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as hearing impaired.

(6) Physically impaired. Student performance standards for students identified as physically impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as physically impaired.

(7) Language impaired. Student performance standards for students identified as language impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level VI as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as language impaired.

(8) Emotionally handicapped. Student performance standards for students identified as emotionally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level IV as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as emotionally handicapped.

(9) Specific learning disabilities. Student performance standards for students identified as specific learning disabled shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level VI; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as specific learning disabled.

(10) Profoundly handicapped. Student performance standards for students identified as profoundly handicapped.

(a) Students with profound handicaps shall include

students identified as profoundly mentally handicapped, dual-sensory impaired, autistic, or severely emotionally disturbed as defined by Rule 6A-6.03021, F.A.C., and

(b) The determination of the requirements for a Special Diploma for students identified as profoundly handicapped shall be consistent with the requirements for any other exceptional students identified in this rule and shall be specified in the student's IEP.

(11) Eleventh grade student performance standards. For students defined in this rule, mastery of the eleventh grade, student performance standards, through successful completion of courses, as defined in subsection 6A-1.0941(1), F.A.C., shall be accepted in lieu of mastery of the student performance standards noted above for awarding of a special diploma.

(12) Special diploma requirements. For students entering ninth grade in or after 1999-2000, special diploma requirements shall include:

(a) Demonstration of proficiency at the independent, supported, or participatory level of each Sunshine State Standard for Special Diploma prescribed in paragraph 6A-1.09401(1)(h), F.A.C., as determined through the IEP process, and

(b) Completion of the minimum number of course credits for a special diploma as prescribed by the school board.

(13) Sunshine State Standards. For students with disabilities as defined in this rule, mastery of the Sunshine State Standards through successful completion of courses that meet graduation requirements for a standard diploma, specified in paragraphs 6A-1.09401(1)(a)-(g), F.A.C., shall be accepted in lieu of Sunshine State Standards for Special Diploma noted in subsection (12) of this rule for awarding of a special diploma.

(14) Employment and community competencies. Each school board's requirements for demonstration of mastery of specified employment and community competencies shall ensure:

(a) The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies;

(b) The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester, and paid a minimum wage in compliance with the requirements of the Fair Labor Standards Act;

(c) The student has mastered the employment and community competencies specified in a training plan. The training plan shall be developed and signed by the student, parent, teacher, and employer prior to placement in employment and shall identify the following:

1. The expected employment and community competencies;

2. The criteria for determining and certifying mastery of the competencies;

3. The work schedule and the minimum number of hours to be worked per week; and

4. A description of the supervision to be provided by school district staff.

Specific Authority 1001.03(1), 1003.438 FS. Law Implemented 1003.02(1) (a), 1003.438 FS. History—New 10-31-88, Amended 6-14-94, Formerly 6A-1.0996, Amended 10-11-99, Repromulgated 1-25-00, Formerly 6A-1.0996.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-3

### Transportation

#### **6A-3.001 Basic Principles for Transportation of Students.**

(1) Where it is practicable to provide improved transportation service and school facilities for students from an area in adjoining districts, district lines shall not interfere with the designation of a school attendance area composed of areas of two (2) or more districts. It shall be the duty of school boards and superintendents of the districts involved to develop a plan which will assure the children of the area adequate school advantages. Students shall not be transported at public expense across district lines unless an annual agreement exists between the respective school boards. This agreement shall outline the responsibility of each district for providing school facilities, including transportation, and specify which district shall have exclusive responsibility for providing and operating the equipment. Unless the agreement shall stipulate otherwise, the rules and regulations of the district in which the bus is traveling shall be observed.

(2) All school bus routes shall be so planned and adjusted to the capacities of available equipment and school buses should be so chosen and assigned to routes and attendance areas that insofar as practicable the full capacity of each bus will be utilized, without standees, to serve students whose homes are beyond reasonable walking distance of the assigned public school center.

(3) A reasonable walking distance for any student who is not otherwise eligible for transportation pursuant to Section 236.083, Florida Statutes, is any distance not more than two (2) miles between the home and school or one and one-half (1 1/2) miles between the home and the assigned bus stop. Such distance shall be measured from the closest pedestrian entry point of the property where the student resides to the closest pedestrian entry point of the assigned school building or to the assigned bus stop. The pedestrian entry point of the residence shall be where private property meets the public right-of-way. The district shall determine the shortest pedestrian route whether or not it is accessible to motor vehicle traffic.

Specific Authority 229.053(1), 234.01, 236.083 FS. Law Implemented 230.23(8), 230.33(10), 234.01, 236.083 FS. History - Amended 3-26-66, 9-17-72, Revised 7-20-74, Repromulgated 12-5-74, Formerly 6A-3.01, Amended 3-12-86, 11-15-94.

#### **6A-3.0121 Responsibility of School District and Parents or Guardians for Students Who Are Transported at Public Expense.**

(1) The school district shall determine what safety measures shall be used in the transportation of students. Such safety measures shall include the designation of routes, bus turning areas, and student stop locations which shall not be left to the discretion of the bus operator or the parents or guardians of the students. The district shall provide belt cutters meeting Florida School Bus Specifications on any school bus equipped with passenger securement or restraint straps. The district shall determine the method of

securement or positioning of students with special needs.

(2) The school district shall exercise additional specific powers and responsibilities as follows:

(a) The district shall provide bus operators and attendants instructions, in writing, as to any special conditions or non-medical care which a student may need while on the bus.

(b) The district shall instruct bus operators, and attendants if used, in their responsibilities for students who are transported at public expense as follows:

1. The operator or attendant of a bus transporting students shall remain with the bus so that students aboard will be under supervision at all times, except to call for assistance in case of an emergency or accident involving the students or bus.

2. In cases where a student with physical disabilities is unable to leave the area of a student stop without assistance, the school bus operator shall not assume responsibility for such assistance except in an emergency which threatens the safety of such student or students.

3. The operator and attendant shall be provided training related to students; however, the operator and attendant shall not give medicine and shall limit his or her assistance to that which may normally be expected of a reasonable, prudent person or as specified in the student's Individual Educational Plan.

(c) The district shall inform parents, guardians, and students at least annually in writing of their responsibilities and related district policies as follows:

1. To ensure the safe travel of their students during the portions of each trip to and from school and home when the students are not under the custody and control of the school district, including during each trip to and from home and the assigned bus stop when the school district provides bus transportation.

2. To ensure that students ride only in their assigned school buses and get off only at assigned bus stops, except when the district has approved alternative buses or arrangements.

3. To ensure students are aware of and follow the district's adopted code of student conduct while the students are at school bus stops and to provide necessary supervision during times when the bus is not present.

4. To ensure that, when the physical disability of the student renders the student unable to get on and off the bus without assistance, the parent or guardian provides the necessary assistance to help the student get on and off at the bus stop, as required by district policy or the student's individual educational plan.

(3) Knowledge, skills and abilities related to student management techniques and characteristics of the students shall be considered when selecting or assigning operators and attendants for routes serving students.

Specific Authority 1001.02 FS. Law Implemented 1001.02, 1001.42(4)(l), 1003.21(1)(e), 1006.21 FS. History—New 3-26-66, Amended 9-17-72, Repromulgated 12-5-74, Formerly 6A-3.121, Amended 11-15-94, 11-26-06.

**6A-3.0171 Responsibilities of School Districts for Student Transportation.**

Each school district shall exercise specific powers and responsibilities, as follows:

(1) Responsibilities of Superintendent. It shall be the duty of the superintendent, acting as executive officer for the school board to exercise functions and to perform duties listed below:

(a) To recommend to the school board such policies, rules and regulations, plans and procedures as the superintendent shall deem desirable or necessary for provisions of satisfactory transportation facilities and equipment in the district, and as executive officer of the board, to administer the transportation service and to make sure that all policies and actions approved by the board are properly executed.

(b) To recommend to the school board for employment such assistants as are, in his or her judgement, necessary to supervise transportation operation and maintenance and to provide essential records, maps and studies of the service.

(c) To recommend in writing to the school board for employment qualified bus operators, attendants and mechanics as may be necessary for efficient functioning of the service.

(d) To develop safety regulations and promote proper safety practices for all operators.

(e) To prepare and recommend to the school board plans for purchase of or contract for safe school buses to transport students to and from school or school activities.

(f) To organize or approve an inspection, maintenance and repair service for publicly owned or contracted buses designed to ensure that the condition of each bus is maintained to meet or exceed accepted school bus industry and state standards, and which will be adequate to provide for quick and economical repair of any bus, and to make sure that this service functions efficiently.

(g) To propose garages at which buses shall be inspected, when arrangements for this service have not been made to use school board employed mechanics, and to see that inspections are systematically made at least once each month at garages approved by the board.

(h) To make periodic, objective surveys of school bus and garage equipment, routes, safety practices, repair and operating costs, and when unsatisfactory conditions are discovered, to recommend corrective measures to the school board.

(i) To recommend a medical examiner or medical examiners to give physical examinations to bus operators and to ascertain and ensure that all examinations are carried out as required. A medical examiner shall be defined as a medical physician or physician assistant licensed pursuant to Chapter 458, Florida Statutes; an osteopathic physician or physician assistant pursuant to Chapter 459, Florida Statutes, a chiropractic physician licensed pursuant to Chapter 460, Florida Statutes; and an Advanced Registered Nurse Practitioner licensed pursuant to Chapter 464, Florida Statutes.

(2) The school district shall exercise additional specific powers and responsibilities, as follows:

(a) Enforcement of law and rules and formulation of

policies.

(b) To make sure that State Board rules are known, understood and observed by all who have responsibility for student transportation.

(c) To assure that all transportation rules and statements of policy are in harmony with rules of the State Board and are fully observed.

(d) To assure that no state funds for transportation are used for transportation of students to schools which cannot qualify for recognition by the Department under the provisions of State Board rules.

(e) To adopt, after considering recommendations of the superintendent, a school board policy prohibiting the use of a cellular telephone by any school bus operator while actively driving the bus.

(f) To adopt after considering recommendations of the superintendent, a school board policy that prohibits unnecessary idling of school buses while they are in the vicinity of students.

(g) To adopt, after considering recommendations of the superintendent statements of policy in harmony with law and with rules of the State Board necessary for maintaining the requirements of adequate transportation. Such policies shall include at least the following responsibilities of the director or supervisor of transportation, the school principal or other designated staff and the bus operator for uniform school bus operating procedures:

1. Responsibilities of the director or supervisor of transportation:

a. To counsel with school bus operators regarding safety and efficiency of service to schools and to make recommendations to them for improvement in service.

b. To confer with the superintendent or the superintendent's designee regarding bus operators and to recommend such personnel for employment.

c. To instruct school bus operators in procedures to be followed in conducting school bus emergency evacuation drills and to confer with each school principal regarding scheduling, conducting and documenting school bus evacuation drills. These procedures shall include a requirement that all operators of school buses transporting students, teachers, or chaperones on field and activity trips instruct all passengers in the locations and proper use of school bus emergency exits prior to each such trip.

d. To counsel with bus operators regarding operator responsibility and authority.

2. Responsibilities of the school principal or other designated school staff:

a. To assume responsibility under the direction of the superintendent for all student disciplinary cases which arise in connection with transportation.

b. To plan the program of the school so that transported students who arrive early or remain late will be under school supervision at all times.

c. To plan and assign places for students to get on and off school buses at the school, and to ensure the safety of the loading/ unloading zone and to provide supervision of students.

d. To direct school bus emergency evacuation drills on each bus serving the school during the first six (6) weeks

of each semester, and to maintain documentation for all students.

e. To provide instruction for all transported students in safe practices on and off the bus during the first six (6) weeks of the first semester of the school year.

f. To request authority in writing for transportation of students on field trips and activity trips, or other special trips, and to plan such trips in accordance with policies approved by the school board.

3. Responsibilities of the school bus operator:

a. To pass all required physical examinations and meet such requirements as may be prescribed by law or rules.

b. To be clean and neat in appearance, and to refrain from wearing shoes which are not securely held on the foot.

c. To refrain from use of tobacco while operating the bus, and to use no profane language in the presence of the students. Operators shall not use or be under the influence of alcohol, illicit drugs, or any substance which may impair the operator's alertness or performance while on duty. Operators shall not carry firearms while on school board property.

d. To prescribe, in cooperation with the principals, the seating arrangements of students on all buses.

e. To report needed changes in school bus transportation to the director or supervisor of transportation including bus loads, bus deficiencies, road hazards, routes and schedules.

f. To study and observe all laws and rules of the State Board and the school board relating to the service of transportation.

g. To attend and participate in conferences and training classes for school bus operators and to be prepared at any time to pass successfully a reasonable examination concerning traffic laws, state and local transportation rules and driving skills.

h. To ascertain and ensure that transported students observe all rules prescribed by law and by the state and local board.

i. To maintain order and discipline, under the direction of the school principal, on the part of every passenger.

j. To permit a student to leave the bus only at their assigned stop, except upon written authorization of the school principal or other district designee.

k. To observe all procedures incorporated in the Florida Department of Education Basic School Bus Operator's Curriculum, as incorporated by reference in paragraph 6A-3.0141(4)(b), F.A.C.

l. To instruct transported students in safe riding practices.

m. To require all passengers to remain seated and to keep aisles and exits clear.

n. To participate in emergency evacuation drills at least once each school semester under the direction of the school principal or the principal's designee.

o. To use the bus, if it is publicly owned, only to transport students to and from school, except upon specific direction of the superintendent or from the principal upon written authorization by the superintendent.

p. To prepare immediately after every accident involv-

ing the bus or a school bus passenger an accident report to be filed with the director or supervisor of transportation.

q. To ascertain and ensure that all persons are off the bus before filling fuel tank.

r. To drive always at a safe speed and never in excess of the legally posted speed limit in business or residential districts or fifty-five (55) miles per hour outside business or residential districts.

s. To cooperate with duly authorized school officials, mechanics and other personnel in the mechanical maintenance and repair of bus in overcoming hazards which threaten the safety or efficiency of service.

t. To inspect the bus at least daily prior to the beginning of the first daily trip or more often as required by the school district and to report any defect affecting safety or economy of operation immediately to authorized service personnel. The inspection shall include all items identified in the procedures related to the mandatory daily inspection in the Basic School Bus Operator Curriculum.

u. To keep the bus clean and neat at all times and not affix any stickers or other unauthorized items to the interior or exterior of buses.

v. To prepare reports, keep all records required, and otherwise assist school officials in mapping bus routes, planning schedules and in obtaining information for a continuous study of all phases of transportation service.

w. To wear a seat belt at all times when the bus is in operation.

x. To use roof-mounted white flashing strobe lights (if equipped) at a minimum, whenever headlights are required to be used due to reduced visibility conditions pursuant to Section 316.217(1)(b), Florida Statutes, except that insufficient light due only to the time of day or night shall not require use of the strobe light.

y. To report immediately to the director or supervisor of transportation, school principal or other designated officials:

[1] Misconduct on the part of any student while on the bus or under the operator's immediate supervision,

[2] Complaints requiring attention of school authorities,

[3] Any hazards arising which would offer either an actual or a potential threat to the safety of students in the operator's care,

[4] Causes for failure to maintain school bus time schedule, and

[5] Overloaded conditions on the bus which exceed the rated capacity of the bus.

z. To perform a complete interior inspection of each bus after each run and trip to ensure no students are left on board.

aa. To maintain as far as practicable by patient and considerate treatment of parents a feeling of security in the safety of students transported.

(3) Transportation personnel.

(a) To employ such assistants as may be recommended by the superintendent and as are necessary in the judgment of the board to supervise operation and maintenance of school buses and to provide records and maps for a continuous study of transportation routes and needs within the district.

(b) To employ or contract only for services of school

bus operators who meet the requirements of Rule 6A-3.0141, F.A.C., and who possess a valid Medical Examiner's Certificate.

(c) To officially maintain, after considering recommendations of the superintendent, an approved, current list of properly licensed physicians or medical facilities staffed by licensed physicians other than members of the school board or superintendent, eligible to examine all school bus operator's and operator applicants, in accordance with Form ESE 479, Florida School Bus Operators Medical Examination Report for Commercial Driver Fitness Determination, and School Bus Driver Physical Standards: Medical Regulatory Criteria for Physical Examinations, as adopted by reference in Rule 6A-3.0151, F.A.C.

(4) Transported students.

(a) To consider, and as nearly as possible to provide for, the transit, safety, and comfort of each student who will be transported to and from school.

(b) To approve, after considering recommendations of the superintendent, policies relating to and governing the conduct of transported students during the time they are riding on the school bus, and during the time spent on the school grounds awaiting the opening of school or in the afternoon hours waiting for the school bus.

(c) To suspend for a period exceeding ten (10) days, upon recommendation of the superintendent, any student who willfully and persistently violates school board policies.

(5) Purchases, lease and use of school buses.

(a) To provide, by purchase or contract, safe, comfortable and adequate transportation facilities and school buses which meet minimum standards of law and State Board rules.

(b) To purchase transportation equipment in accordance with all provisions of law and State Board rules.

(c) To assure that contracts entered into by school boards for operation of school buses are in accordance with law and rules of the State Board.

(d) To adopt policies governing the use of publicly owned and contracted school buses for transportation of students to school and school activities, and to ascertain and ensure that buses and bus bodies are used only after policies have been adopted and upon written instructions signed by the superintendent or designee. Such district policies shall include the provision that any equipment carried in a school bus which could shift on impact or sudden stop shall be securely fastened and shall not block any aisle or exit at any time.

(6) Routes and schedules.

(a) To designate school bus routes, following consideration of data and recommendations presented by the superintendent, to provide for students eligible for transportation when transportation by school bus is economical and practicable.

(b) To propose minimum distances from school centers within which no bus stops will be scheduled except for students with special transportation needs; to propose minimum distances from transportation routes as residence zones within which students must arrange to meet the bus at regularly scheduled stops; and to plan and arrange routes, schedules, and student capacities in accordance

with policies adopted by the school board.

(c) To plan routes, so far as practicable, so that no elementary student shall be on a bus more than fifty (50) minutes or secondary school student more than one (1) hour during the morning or evening, and so that no more than an hour and one-half will elapse between the time the student boards the bus and the time school begins, or the time school closes and the student leaves the bus in the afternoon, and to arrange proposed routes which, insofar as possible, are free from major hazards.

(d) To assure that county and city officials are advised of hazards on bus routes and hazards involving students walking to and from school.

(7) School bus operating principles. To assure that all buses are operated in accordance with municipal, county and state traffic requirements and that every precaution is taken to assure the safety of students.

(8) Inspection and maintenance of school buses.

(a) To provide, after considering recommendations of the superintendent, adequate storage, maintenance and inspection procedures for all buses owned by the school board, and to assure that all contract buses in use in the district are properly inspected and maintained in accordance with law and rules of the State Board.

(b) The inspection shall be conducted in accordance with procedures and include all items listed in the State of Florida School Bus Safety Inspection Manual, 2003 Edition which is hereby incorporated by reference and made a part of this rule. This document may be obtained from the Bureau of Career Development, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, at a cost not to exceed actual production and distribution cost.

(c) Inspection of buses shall be scheduled and performed at a maximum interval of thirty (30) school days. Any bus that is removed from service or deadlined so as to disrupt the safety inspection schedule shall be inspected prior to being returned to service. All deficiencies discovered during the safety inspection shall be noted on the inspection form. Follow-up repairs of all safety related items shall be made before the bus is returned to service and shall be documented.

(d) School bus inspections shall be conducted by technicians certified as school bus inspectors in accordance with the State of Florida School Bus Safety Inspection Manual, 2003 Edition. The requirement that inspections be performed by a certified school bus inspector may be waived for a period not to exceed six (6) months when an emergency condition exists, upon written notification to the Commissioner by the district superintendent.

(e) No person shall knowingly render inoperative or reduce compliance of any school bus equipment required to meet Federal Motor Vehicle Safety Standards applicable at the time of manufacture.

(9) Transportation records, reports and accounting.

(a) To ascertain and ensure that all prescribed records are kept and reports made which are required by law, rules or the Commissioner.

(b) To assure that all records and reports prescribed by the Commissioner are properly completed and are furnished on the dates due to those designated to receive

them.

1. To file with the Deputy Commissioner for Finance and Operations school bus accident reports using the Department's Automated School Bus Accident Reporting System which may be accessed at <http://doeweb-prd.doe.state.fl.us/eds/BusAccident>. Districts shall complete a report on any school bus accident meeting the reporting requirements of the automated system. The Department's Automated School Bus Accident Reporting System (Form ESE 256) as noted above is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the reporting requirements in the Automated School Bus Accident Reporting System may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

2. To file with the Deputy Commissioner for Finance and Operations the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School (Form 422) using the Department's automated system which may be accessed at <http://data.fldoe.org/walking/>. The Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(c) Keep a current file of all Medical Examiner Certificates and required dexterity tests for school bus operators.

(d) To maintain records of inspection of each school bus in accordance with requirements of subsection (8) of this rule.

(e) To prepare maps of routes and attendance zones and conduct and carry on such studies of transportation as shall enable the superintendent to measure progress and recommend improvements in the transportation service.

(f) To prescribe and maintain, upon recommendation of the superintendent, such additional records, reports, accounts and accounting procedures as may be necessary to provide complete information regarding the transportation service.

(10) Inter-agency relationships. To cooperate with municipal, county, state, and federal agencies to promote the safety of the transportation service through correction of remediable road hazards.

Specific Authority 1003.31, 1006.21, 1006.22 FS. Law Implemented 316.183(3), 316.189, 1003.31, 1006.21(3), 1006.22 FS. History-Amended 9-4-64, 3-25-66, 1-17-72, Revised 7-20-74, Repromulgated 12-5-74, Amended 11-24-76, 10-1-81, Formerly 6A-3.17, Amended 9-30-87, 6-26-89, 11-15-94, 8-28-95, 4-18-96, Formerly 6-3.017, Amended 6-11-00, Formerly 6-3.017, Amended 4-21-03, 11-26-06.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-4

### Certification

#### 6A-4.002 General Provisions.

(1) Educator's certificates.

(a) Types of certificates. The types of certificates are the professional certificate, the nonrenewable professional certificate, the temporary certificate, and the athletic coaching certificate. Requirements for obtaining all types of certificates are specified in Rule 6A-4.004, F.A.C.

(b) An applicant for a Florida educator's certificate shall be governed by Florida Statutes and rules for the temporary and professional certificates that are in effect at the time of application and qualification for the initial certificate provided successive certificates are issued for consecutive school fiscal years. An individual who permits a temporary certificate to expire for at least one (1) school fiscal year may secure another full-time certificate in accordance with Florida Statutes and rules for temporary and professional certificates which are in effect at the time the most recent application is received in the Bureau of Educator Certification, Florida Department of Education.

(c) Effective date of certificates. Each certificate shall bear an effective date of July 1 of the school fiscal year for which it is issued.

(d) Definition of coverage. The term "coverage" as used in Florida State Board of Education rules for educator certification purposes shall be defined as the designation on a Florida educator's certificate which indicates the area in which an individual has a content knowledge base. The term "coverage" shall be used synonymously with the terms "subject," "area," or "field."

(e) Definition of endorsement. The term "endorsement" as used in Florida State Board of Education rules for educator certification purposes shall be defined as a rider on a Florida educator's certificate with a designated coverage. An endorsement shown on a certificate with a coverage signifies a pedagogical knowledge base which targets particular levels, stages of development, or circumstances.

(f) Classification of coverages and endorsements shown on certificates. Each coverage or endorsement shown on a certificate shall be identified as an academic class, administrative class, specialty class, or vocational class. The classification is specified in the specialization rule for each coverage or endorsement.

(g) Authority of the Commissioner of Education. Under extenuating circumstances not covered in these rules, the Commissioner is authorized to issue a certificate to an individual upon the request of a Florida district school superintendent.

(h) Responsibility to qualify for and maintain a valid certificate. It shall be the responsibility of each applicant to complete all requirements for the temporary and professional certificates and to file with the Bureau of Educator Certification, Florida Department of Education, evidence of such completion within the specified timelines. For renewal of the professional certificate, it shall be the responsibility of each applicant to obtain current information regarding renewal requirements and complete such requirements prior to expiration of the professional certificate. Information

regarding renewal of the professional certificate may be obtained by contacting the employing Florida district school board or nonpublic school, or by contacting the Bureau of Educator Certification, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(i) Certificates from other states. Certificates from other states shall not be valid for teaching in Florida.

1. Certificates from other states used to document eligibility for a Florida certificate shall:

a. Be the standard educator's certificate issued by that state which is comparable to a Florida Professional Certificate,

b. Be issued in a subject comparable to a Florida certification subject, and

c. Require the same or higher level of training required for certification in that subject in Florida.

2. Official documentation of another state's certificate shall be a photocopy of the front and back of the original certificate.

(j) Certificates from national certification organizations. Certificates issued by national certification organizations approved in Florida Statute or by the State Board of Education shall:

1. Be issued in a subject comparable to a Florida certification subject,

2. Require the same or higher degree level of training required for certification in that subject in Florida, and

3. Official documentation of the national certificate shall be a photocopy of the front and back of the original certificate.

(k) Alteration of certificates. The alteration of any certificate with the intent to mislead or defraud shall be sufficient grounds for revocation of the certificate. It shall be incumbent upon the certificate holder to establish evidence of the absence of intent to mislead or defraud.

(2) Degree major.

(a) A degree major used in Florida State Board of Education rules for educator certification purposes is defined as the major field of study as identified by the degree granting institution. A degree major completed at an accredited or approved institution as defined in Rule 6A-4.003, F.A.C., in an area in which Florida offers certification may be utilized to satisfy the specialization requirements specified in Rules 6A-4.008 through 6A-4.035 and 6A-4.054 through 6A-4.062, F.A.C., for the subject to be shown on the certificate.

(b) The Commissioner is authorized to deny acceptance of a major for educator certification purposes if the courses completed for the major are not comparable in quantity and content to the specific course requirements listed in Florida State Board of Education rules for certification in that subject.

(3) College credit. College credit used for educator certification purposes shall be undergraduate or graduate credit earned at an accredited or approved institution as specified in Rule 6A-4.003, F.A.C. All college credit shall be computed by semester hours. One (1) quarter hour of college credit shall equal two-thirds (2/3) of one (1) semester

hour. Community and junior college credit used for educator certification purposes shall parallel those of the first and second years of course work at an accredited or approved institution and shall be comparable to courses offered at Florida community and junior colleges which have been approved by the Florida Department of Education.

(4) Waiver of college credit.

(a) Course exemption. Exemption from a college course as verified in writing by the institution of higher education shall be accepted the same as credit earned in that course to meet a specific course requirement for certification.

(b) College teaching experience. Teaching a college course at an accredited or approved institution or an accredited community or junior college as described in Rule 6A-4.003, F.A.C., shall be accepted the same as credit earned in that course to meet a specific course requirement for certification. A written statement from the registrar or other official designated by the president verifying the college teaching experience shall be filed with the Bureau of Educator Certification, Florida Department of Education.

(5) Teaching experience.

(a) Definition of teaching experience. Teaching experience as used in Florida State Board of Education rules for educator certification purposes shall be defined as full-time teaching, administrative, or supervisory service.

1. Teaching experience used for academic, administrative, vocational, and specialty class subjects shall be gained in a public or state supported elementary or secondary school; or in a prekindergarten (ages three [3] and four [4]) school as defined in Section 1003.01(2), Florida Statutes; or in a birth through age two (2) school which is a public or state supported school or is a contractor for a public school system. However, teaching experience in a nonpublic school shall be acceptable provided the applicant held a valid full-time teaching certificate issued by the state department of education in the state where the teaching experience was acquired.

2. Teaching experience used for vocational class subjects shall be gained in an elementary or secondary school as specified in subparagraph (5)(a)1. of this rule, in a public or state supported vocational or technical school, or in an accredited community or junior college as described in Rule 6A-4.003, F.A.C.

(b) Utilization of teaching experience. A year of full-time teaching experience may be accepted in lieu of three (3) semester hours of college credit. A maximum of three (3) years of teaching experience may be used in lieu of nine (9) semester hours of college credit. Not more than one (1) year of teaching experience may be used in lieu of three (3) semester hours of college credit toward satisfying requirements in professional preparation. Not more than two (2) years of teaching experience may be used in lieu of six (6) semester hours of college credit toward satisfying requirements in a specialization area. When teaching experience is used to satisfy a course requirement in a specialization area or to satisfy a subject special methods course requirement in professional preparation, the teaching experience shall be comparable to the course requirement acquired in the subject or field and at the appropriate

instructional level to which it is applied.

(c) Limitations on the use of teaching experience. Teaching experience shall not be accepted in lieu of college credit to satisfy the following certification requirements:

1. Renewal or reinstatement of a professional certificate,
2. Reissuance of a temporary certificate,
3. Satisfaction of a graduate credit requirement,
4. Satisfaction of an entire certification subject.

(6) Noncitizens. A noncitizen may be issued an Official Statement of Status of Eligibility or a certificate as specified below:

(a) An Official Statement of Status of Eligibility shall be issued when the applicant meets requirements specified in Section 1012.56(1), Florida Statutes.

(b) The certificate may be issued when the applicant meets requirements specified in Rule 6A-4.004, F.A.C., and an official of the employing Florida public, state supported, or nonpublic school submits documentation of appropriate immigration status. The documentation shall be a photocopy of the completed United States Immigration and Naturalization Form I-9, Employment Eligibility Verification, accepted for employment in compliance with the United States Immigration Reform and Control Act of 1986.

(c) Exchange teachers.

1. An exchange teacher is defined as a teacher from a country other than the United States teaching as the result of a reciprocal arrangement with the United States government or a nationally recognized organization in the United States and another country.

2. A temporary certificate valid for three (3) years may be issued to an exchange teacher. The certificate shall reflect the designation of exchange teacher and shall not reflect a subject. Only one (1) certificate may be issued under this provision when an applicant meets the following requirements:

a. Submits an application form and fee as specified in Rule 6A-4.0012, F.A.C.

b. Submits verification of participation in an exchange program. Verification shall be provided by the employing school district, state supported or nonpublic school, and

c. Submits a request for issuance of the temporary certificate from the employing Florida school superintendent or chief administrative officer of the state supported or nonpublic school which has a Department of Education approved system for documenting the demonstration of required professional education competence.

Specific Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History- Amended 4-10-64, 4-8-68, 4-11-70, 10-18-71, 3-19-72, 12-18-72, 6-17-73, 4-19-74, Repromulgated 12-5-74, Amended 6-22-76, 6-27-77, 12-26-77, 4-27-78, 7-1-79, 7-2-79, 6-26-80, 7-28-81, 1-3-82, 5-11-82, 6-22-83, 3-28-84, 1-31-85, 3-13-85, Joint Administrative Objection Filed - See FAW Vol. 12, No. 11, March 14, 1986, Formerly 6A-4.02, Amended 12-25-86, 10-18-88, 10-10-89, 4-15-91, 11-10-92, 5-30-94, 11-13-96, 10-15-01, 12-27-04, 7-27-06.

#### **6A-4.0141 Specialization Requirements for Certification in the Area of Preschool Education (Birth through Age Four)— Academic Class.**

Competencies for the specialization requirements are listed in the publication "Competencies for Specialization Requirements for Educators' Certification in Florida, First

Edition” which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained from the Bureau of Teacher Certification, Florida Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

(1) Plan One. A bachelor’s or higher degree with an undergraduate or graduate major in preschool education (birth through age four [4]), or

(2) Plan Two. A bachelor’s or higher degree with forty-five (45) semester hours in preschool education (birth through age four [4]) to include the areas specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8) with emphasis on infants, toddlers, and preschoolers;

(b) Three (3) semester hours in the historical, philosophical, and sociological perspectives in early childhood education with emphasis on infants, toddlers, and preschoolers;

(c) Eighteen (18) semester hours in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers which include integrated field experiences;

(d) Six (6) semester hours in issues and practices to promote family and community involvement in programs serving infants, toddlers, and preschoolers which include integrated field experiences;

(e) Three (3) semester hours in health, nutrition, and safety in programs serving infants, toddlers, and preschoolers;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers which include integrated field experiences;

(g) Six (6) semester hours in special needs of all infants, toddlers, and preschoolers which include integrated field experiences; and

(h) Three semester hours in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers which include integrated field experiences; or

(3) Plan Three. A bachelor’s or higher degree with an undergraduate or graduate degree major in early childhood education or primary education (kindergarten through grade three [3]); or a bachelor’s or higher degree with the specialization and professional preparation requirements completed for the prekindergarten (age three [3] through grade three [3]) certification coverage; and completion of twelve (12) semester hours to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers;

(b) Credit in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers;

(c) Credit in the special needs of all infants, toddlers, and preschoolers; and

(d) Credit in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers; or

(4) Plan Four. A bachelor’s or higher degree with specialization and professional preparation requirements

completed for the early childhood education or the primary education (kindergarten through grade three [3]) certification coverage; and completion of twenty-four (24) semester hours to include integrated field experiences as specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8) with emphasis on infants, toddlers, and preschoolers;

(b) Credit in the historical, philosophical, and sociological perspectives in early childhood education with emphasis on infants, toddlers, and preschoolers;

(c) Nine (9) semester hours in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers;

(d) Credit in issues and practices to promote family and community involvement in programs serving infants, toddlers, and preschoolers;

(e) Credit in health, nutrition, and safety in programs serving infants, toddlers, and preschoolers;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers;

(g) Six (6) semester hours in special needs of all infants, toddlers, and preschoolers; and

(h) Credit in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers.

Specific Authority 229.053(1), 231.15(1), 231.17(1) F.S. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 5-30-94.

#### **6A-4.0142 Specialization Requirements for Certification in the Area of Prekindergarten/Primary Education (Age Three Through Grade Three)—Academic Class.**

Competencies for the specialization requirements are listed in the publication “Competencies for Specialization Requirements for Educators’ Certification in Florida, First Edition” which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained from the Bureau of Educator Certification, Florida Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

(1) Plan One. A bachelor’s or higher degree with an undergraduate or graduate major in prekindergarten/primary education (age three [3] through grade three [3]), or

(2) Plan Two. A bachelor’s or higher degree with forty-five (45) semester hours in prekindergarten/primary education (age three [3] through grade three [3]) to include the areas specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8);

(b) Three (3) semester hours in the historical, philosophical, and sociological perspectives in early childhood education;

(c) Eighteen (18) semester hours in developmentally appropriate integrated curriculum and practices in programs serving age three (3) through grade three (3) which include integrated field experiences;

(d) Six (6) semester hours in issues and practices to promote family and community involvement which include integrated field experiences;

(e) Three (3) semester hours in health, nutrition, an safety;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation which include integrated field experiences;

(g) Six (6) semester hours in special needs of all children and their families which include integrated field experiences; and

(h) Three (3) semester hours in child guidance and classroom management which include integrated field experiences.

(3) Plan Three. A bachelor's or higher degree with an undergraduate or graduate degree major in the area of preschool education (birth through age four [4]); or a bachelor's or higher degree with the specialization and professional preparation requirements completed for the area of preschool education (birth through age four [4]); and completion of twelve (12) semester hours in prekindergarten/primary education to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving children age five (5) through grade three (3);

(b) Credit in diagnosis, assessment, and evaluation for children age five (5) through grade three (3);

(c) Credit in special needs of children (age five [5] through grade [3]) and their families; and

(d) Credit in child guidance and classroom management for children (age five [5] through grade three [3]).

(4) Plan Four. A bachelor's or higher degree with an undergraduate or graduate degree major in the area of primary education (grades kindergarten through grade three [3]) and twelve (12) semester hours in prekindergarten/primary education to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving children ages three (3) and four (4);

(b) Credit in issues and practices to promote family and community involvement;

(c) Credit in diagnosis, assessment, and evaluation for children ages three (3) and four (4); and

(d) Six (6) semester hours in special needs of all children and their families.

(5) Plan Five. A bachelor's or higher degree with an undergraduate or graduate degree major in elementary education (grades one [1] through six [6]); or a bachelor's or higher degree with the specialization and professional preparation requirements completed for elementary education (grades one [1] through six [6]) or primary education (grades kindergarten through grade three [3]); and fifteen (15) semester hours in prekindergarten/primary education to include integrated field experiences as specified below:

(a) Six (6) semester hours in developmentally appropriate integrated curriculum and practices in programs serving children ages three (3) through five (5);

(b) Credit in health, nutrition, and safety for children

(c) Credit in diagnosis, assessment, and evaluation of young children;

(d) Credit in the education of young children with spe-

cial needs and their families; and

(e) Credit in child guidance and management of classrooms with young children.

Specific Authority 229.053(1), 231.15(1), 231.17(1) Florida Statutes. Law Implemented 229.053, 231.145, 231.15, 231.17(3) Florida Statutes. History - New 5-30-94, 7-17-00.

#### **6A-4.0172 Specialization Requirements for Certification in the Area of Hearing Impaired (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in hearing impaired, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include credit in the areas specified below:

(a) Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

(b) Educational management of exceptional students to include classroom organization, behavior management, and consultation skills;

(c) Audiology, anatomy and physiology of human speech and auditory mechanisms, including assessment, amplification, and assistive listening devices;

(d) Introduction to education of students who are hearing impaired to include the nature and needs of hearing impaired and multi-handicapped students, trends and issues, family support and intervention, and community resources;

(e) Language development to include the application of English linguistics, psycholinguistics, and sociolinguistics to the education of hearing impaired students, including ages birth to five (5) years;

(f) Auditory development and learning to include methods of auditory learning, assessment, and techniques for evaluating the acoustic environment;

(g) Manual communication to include manually coded English and American Sign Language;

(h) Instructional strategies for teaching students who are hearing impaired to include credit in the following:

1. Teaching language to include instructional procedures to effect language learning to students who are hearing impaired including ages birth to age five (5) years;

2. Speech development to include production and transmission of speech and instructional and assessment strategies to facilitate the development of speech skills for students who are hearing impaired including ages birth to age five (5) years;

3. Teaching reading to students who are hearing impaired to include theories, curricular adaptations, and assessment;

4. Teaching mathematics, science, and social studies to students who are hearing impaired to include procedures for curricular adaptations; and

5. Teaching social and personal skills for students who are hearing impaired to include employability skills, career awareness, and transition planning for adult living.

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92, Amended 7-17-00.

**6A-4.0176 Specialization Requirements for Certification in the Area of Speech-Language Impaired (Grades K-12)—Academic Class.**

(1) Completion of the following education courses to satisfy the courses required in paragraph (2)(a) of Rule 6A-4.006, FAC.

(a) Three (3) semester hours in survey of exceptional student education, and

(b) Three (3) semester hours in school organization or general curriculum which includes the elementary and secondary instructional levels.

(2) Completion of specialization requirements by one of the following plans:

(a) Plan One. A master's or higher degree with a graduate major in speech-language pathology,

(b) Plan Two. A valid license in speech-language pathology issued pursuant to Chapter 468, Part I, Florida Statutes. Appropriate documentation to the Department shall be a letter of verification of licensure from the issuing agency,

(c) Plan Three. A valid certificate of clinical competence issued by the American Speech-Language Hearing Association. Appropriate documentation to the Department shall be a letter of verification from the issuing agency, or

(d) Plan Four. A master's or higher degree with a minimum of sixty (60) semester hours of college credit in speech-language pathology, and three hundred (300) clock hours of supervised clinical practice to include one hundred fifty (150) clock hours at the graduate level. The supervised clinical practice shall include each of the following areas: evaluation of speech and language problems; management of language disorders in children; management of disorders of articulation, fluency, and voice; and assessment and management of auditory disorders. Appropriate documentation to the Department shall be a letter of verification from a designated official of the training institution. Thirty (30) semester hours of the minimum required college credit in speech-language pathology shall be graduate credit and shall include the following:

1. Three (3) semester hours of graduate credit in each of the following:

a. Evaluation of speech, language, and hearing disorders;

b. Management of articulation disorders;

c. Management of fluency disorders;

d. Management of voice disorders; and

e. Management of auditory disorders; and

2. Six (6) semester hours of graduate credit in management of language disorders of children.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 10-3-91.

**6A-4.01761 Specialization Requirements for Certification in the Area of Speech-Language Impaired/Associate—Academic Class.**

A bachelor's degree with an undergraduate major in speech-language pathology or speech-language impaired. This coverage is limited to a period of not more than three (3) years for the provision of services in school districts that

qualify for the sparsity supplement as described in Section 236.081(6), Florida Statutes. This coverage shall be identified on the temporary certificate when requested by the superintendent of an eligible school district. This rule shall be reviewed by the Florida Board of Education by October 1, 2003.

Specific Authority 231.15(1), 231.17, 231.167 FS. Law Implemented 231.02, 231.15, 231.17 FS. History - New 9-17-01.

**6A-4.0178 Specialization Requirements for Certification in the Area of Visually Impaired (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in visually impaired, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include credit in the areas specified below:

(a) Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

(b) Educational management of exceptional students to include classroom organization, behavior management, and consultation skills;

(c) Methods and materials for teaching reading t include:

1. Sequential developmental skills and concepts of reading,

2. Recognition and diagnosis of reading problems, and

3. Prescription and utilization of appropriate methods and materials to increase reading performance; and

(d) Specialized courses for the education of students who are visually impaired to include each of the following:

1. Introduction to visual impairments including psychological, social, and emotional implications; history of educational services; and current delivery models;

2. Introduction to orientation and mobility to include theories, concepts, and the impact of mobility on the individual, the family, and the community;

3. The teaching of reading and writing of English Braille;

4. Functions of the eye and educational implications to include interpretation of medical eye reports, structure of the eye, disease and impairments, low vision training, and the use and care of optical aids; and

(e) Instructional strategies for teaching students who are visually impaired to include each of the following:

1. Teaching and assessing personal and social skills to include personal hygiene, self care, interpersonal relationships, career awareness, and social interaction with peers;

2. Teaching and assessing communication skills and reading including the use of specialized equipment; and

3. Teaching and assessing mathematics, science, and technology to include Nemeth code, abacus, specialized science materials, adapted technology, and computer access devices.

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92, Amended 7-17-00.

**6A-4.01791 Specialization Requirements for the Gifted Endorsement—Academic Class Beginning July 1, 1992.**

- (1) A bachelor's or higher degree with certification in an academic class coverage, and
- (2) Fifteen (15) semester hours in gifted education to include three (3) semester hours in each area specified below:
  - (a) Nature and needs of gifted students to include student characteristics; cognitive, social, and emotional needs; and history and current research;
  - (b) Curriculum and instructional strategies for teaching gifted students to include modification of curriculum content, instructional process, student products, and learning environment;
  - (c) Guidance and counseling of gifted students to include motivation, self-image, interpersonal skills, and career options for gifted students;
  - (d) Educating special populations of gifted students such as minorities, underachievers, handicapped, economically disadvantaged, and highly gifted to include student characteristics and programmatic adaptations; and
  - (e) Theory and development of creativity to include elements of creativity such as fluency, flexibility, originality, and elaboration.
- (3) This rule shall take effect July 1, 1992.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92.

**6A-4.01792 Specialization Requirements for the Prekindergarten Disabilities Endorsement—Academic Class.**

- (1) A bachelor's or higher degree with certification in any exceptional student education area, preschool education, primary education, prekindergarten/primary education, or early childhood education, and
- (2) Twelve (12) semester hours in prekindergarten disabilities education to include the areas specified below:
  - (a) Six (6) semester hours in the development and implementation of individualized educational programs for the prekindergarten child with disabilities to include formal and informal evaluation techniques; developmentally appropriate curriculum, methods, and intervention strategies; teaming approaches to facilitate inclusion in appropriate learning environments; and multidisciplinary approaches and techniques for serving the child and the family;
  - (b) Three (3) semester hours in child development to include theories of the atypical child, the stages and sequences of development, and the impact of disabilities and biomedical risk factors on learning; and
  - (c) Three (3) semester hours in family collaboration and support to include family systems theory and interaction; community resources; service coordination; and transition.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 10-3-91, Amended 5-7-02.

**6A-4.01793 Specialization Requirements for Endorsement in Severe or Profound Disabilities—Academic Class.**

- (1) A bachelor's or higher degree with certification in any area of special education; and
- (2) Twelve (12) semester hours in the education of students with profound disabilities to include the areas specified below:
  - (a) Coursework in atypical child development and assessment of students with profound disabilities to include use of student assessment for individual educational planning and program planning;
  - (b) Coursework in interdisciplinary teaming to include available resources; the recognition of the role of parents, teachers, and other professionals; functional community-based curriculum; employability skills; and transition planning; and
  - (c) Completion of one of the areas as follows
    - 1. Six (6) semester hours to include:
      - a. Coursework in nature of autism and intervention strategies for educating students who are autistic to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements; and
      - b. Three (3) semester hours of supervised field-based experience with students who are autistic; or
    - 2. Six (6) semester hours to include:
      - a. Coursework in nature of profound mental disabilities and intervention strategies for educating students with profound mental disabilities to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements, and
      - b. Three (3) semester hours of supervised field-based experience with students with profound mental disabilities; or
    - 3. Six (6) semester hours to include:
      - a. Coursework in nature of deaf-blindness and intervention strategies for educating students who are deaf-blind to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements, and
      - b. Three (3) semester hours of supervised field-based experience with students who are deaf-blind.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 10-3-91, Amended 4-17-02.

**6A-4.01794 Specialization Requirements for the Orientation and Mobility Endorsement—Academic Class.**

- (1) Plan One. A bachelor's or higher degree with certification in visually impaired and nine (9) semester hours to include three (3) semester hours in each of the following:
  - (a) Beginning orientation and mobility skills to include experience and observation of behaviors under conditions simulating visual impairments;
  - (b) Advanced orientation and mobility skills focusing on increasingly complex environments and applications to multihandicapped preschool, school-age, and adult populations; and
  - (c) Applied skills in orientation and mobility to include observation and assessment, and planning and delivery

of orientation and mobility services to students with visual impairments; or

(2) Plan Two. A bachelor's or higher degree with certification in an academic class subject and twenty-four (24) semester hours to include the areas specified below:

(a) Three (3) semester hours in each of the following

1. Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

2. Introduction to visual impairments including psychological, social, and emotional implications; history of educational services; and current delivery models;

3. Functions of the eye and educational implications to include interpretation of medical eye reports, structure of the eye, disease and impairments, low vision training, and the use and care of optical aids;

4. Introduction to orientation and mobility to include theories, concepts, and the impact of mobility on the individual, the family, and the community;

5. Beginning orientation and mobility skills to include experience and observation of behaviors under conditions simulating visual impairments;

6. Advanced orientation and mobility skills focusing on increasingly complex environments and applications to multihandicapped preschool, school-age, and adult populations; and

(b) Six (6) semester hours in applied skills in orientation and mobility to include observation and assessment, and planning and delivery of orientation and mobility services to students with visual impairments.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History -New 10-3-91.

#### **6A-4.01795 Specialization Requirements for Certification in Exceptional Student Education (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with a major in exceptional student education, special education, mental disabilities, specific learning disabilities, emotional disabilities, physically impaired or varying exceptionalities; or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include the areas specified below:

(a) Foundations of special education to include educational practices and development and characteristics of children with disabilities;

(b) Assessment and evaluation to include interpretation, analysis, and application of assessment results and alternate assessment strategies;

(c) Evaluation of student progress in acquiring, generalizing, and maintaining skills related to participation in educational settings;

(d) Instructional practices in special education to include selection and implementation of instructional practices and strategies and identification of accommodations and modifications;

(e) Relevant general education and special skills curricula selection;

(f) Assessing, designing, and implementing positive behavioral supports;

(g) Language development and communication skills to include normal sequence of expressive and receptive language development and identification of communication deficits and appropriate interventions;

(h) Skills to teach interpersonal interactions to include criteria for selecting instructional procedures for teaching personal care, interpersonal skills, self-advocacy skills, and adaptive life skills;

(i) Transition process to include development of desired postschool outcomes; and

(j) Effective methods of communication, consultation, and collaboration with students, families, administrators, and other education professionals.

(3) This rule is to become effective July 1, 2002, and supercedes the provisions of Rules 6A-4.0171, 6A-4.0173, 6A-4.0174, 6A-4.0175, and 6A-4.0177, FAC., as of that date.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15(1), 231.17(6) FS. History - New 7-1-02.

#### **6A-4.01796 Specialization Requirements for Endorsement in Autism—Academic Class.**

(1) A bachelor's or higher degree with certification in any exceptional student education area; and

(2) Twelve semester hours to include:

(a) Nature of autism (to include student characteristics, appropriate learning goals, teaching approaches, environmental arrangements, etc.);

(b) Use of assistive and instructional technology and natural, alternative and augmentative communication systems for students with autism;

(c) Behavior management and positive behavior supports for students with autism;

(d) Assessment and diagnosis of autism, an

(e) Field-based experience with students with autism

(3) This rule is to become effective July 1, 2002.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15(1), 231.17(6) FS. History - New 7-1-02.

#### **6A-4.0181 Specialization Requirements for Certification in Guidance and Counseling (Grades PK-12)—Specialty Class Beginning July 1, 1990.**

(1) Plan One. A master's or higher degree with a graduate major in guidance and counseling or counselor education which includes three (3) semester hours in a supervised counseling practicum in an elementary or secondary school, or

(2) Plan Two. A master's or higher degree with thirty (30) semester hours of graduate credit in guidance and counseling to include the areas specified below:

(a) Three (3) semester hours in principles, philosophy, organization and administration of guidance,

(b) Three (3) semester hours in student appraisal including administration and interpretation of standardized tests,

(c) Three (3) semester hours in education and career

development information practices and systems,

(d) Three (3) semester hours in learning, personalit theory, and human development,

(e) Three (3) semester hours in counseling theories and individual counseling techniques,

(f) Three (3) semester hours in group counseling and guidance techniques,

(g) Three (3) semester hours in consultation skills and techniques for conferring with groups such as agencies, teachers, and parents,

(h) Three (3) semester hours in legal, ethical, and current issues affecting school counselors,

(i) Three (3) semester hours in specialized counseling techniques for use with elementary or secondary level special populations such as exceptional students, dropouts, and minorities, and

(j) Three (3) semester hours in a supervised counseling practicum in an elementary or secondary school.

(3) This rule shall take effect July 1, 1990.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 231.02, 231.145, 231.15, 231.17 FS. History - New 7-1-90.

#### **6A-4.0191 Specialization Requirements for Certification in Health (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in health, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in health to include credit in each of the areas specified below:

(a) Mental and emotional health

(b) Substance abuse which includes alcohol, tobacco, and other drugs,

(c) Advanced first aid and cardiopulmonary resuscitation training as specified below:

1. Credit in advanced first aid and cardiopulmonary resuscitation, or

2. A valid instructor's first aid certificate and a valid instructor's cardiopulmonary resuscitation certificate issued by the American Heart Association or the American Red Cross,

(d) Personal, community, or environmental health,

(e) Human anatomy and human physiology,

(f) Nutrition

(g) Human sexuality, and

(h) Disease control for diseases such as Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV), and Sexually Transmissible Diseases (STDS).

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 231.02, 231.145, 231.15, 231.17, 233.067 FS. History - New 7-1-90, Amended 7-17-00.

#### **6A-4.02431 Specialization Requirements for the American Sign Language Endorsement—Academic Class.**

(1) A bachelor's or higher degree with certification in an academic class coverage, and

(2) Eighteen (18) semester hours in American Sign Language to include three (3) semester hours in each area specified below:

(a) First and second language acquisition,

(b) Linguistics of American Sign Language,

(c) Aspects of the deaf culture and community,

(d) Methods of teaching American Sign Language,

(e) American Sign Language IV, and

(f) American Sign Language literature, or

(3) A bachelor's or higher degree with certification in an academic class coverage, and a valid Professional Level Certificate issued by the American Sign Language Teachers Association (ASLTA).

Specific Authority 1007.2615, 1012.55, 1012.56, FS. Law Implemented 1007.2615, 1012.55, 1012.56, FS. History - New 3-1-05.

#### **6A-4.0283 Specialization Requirements for Certification in Physical Education (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with a teacher education major in physical education, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in physical education to include the areas specified below:

(a) Twelve (12) semester hours in instructional design and content of physical education,

(b) Motor development,

(c) Kinesiology,

(d) Administration of physical education,

(e) Applied exercise physiology,

(f) Adaptive physical education or physical education for exceptional students,

(g) Care and prevention of human injuries, and

(h) Theory and practice in coaching

(3) This rule is to become effective July 1, 2003, and supercedes the provisions of Rule 6A-4.028, FAC., as of that date.

Specific Authority 1001.02, 1012.55, 1012.56, FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56, FS. History - New 7-1-03

#### **6A-4.0292 Specialization Requirements for the Reading Endorsement—Academic Class.**

(1) A bachelor's or higher degree with certification in an academic, degreed vocational, administrative, or specialty class coverage, and

(2) Fifteen (15) semester hours in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties to include the areas specified below:

(a) Six (6) semester hours in understanding reading as a process of student engagement in both fluent decoding of words and construction of meaning;

(b) Three (3) semester hours in the administration and interpretation of instructional assessments to include screening, diagnosis, and progress monitoring with purposes of prevention, identification, and remediation of reading difficulties;

(c) Three (3) semester hours in understanding how to prescribe, differentiate instruction, and utilize appropriate strategies and materials based upon scientifically based reading research in order to address the prevention, iden-

tification, and remediation of reading difficulties in order to increase reading performance; and

(d) Three (3) semester hours in a supervised practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization of appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and remediation of reading difficulties.

Specific Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History - New 7-30-02.

#### **6A-4.0311 Specialization Requirements for Certification in School Psychologist (Grades PK-12)—Specialty Class Beginning July 1, 1992.**

(1) Plan One. A specialist's or higher degree with a major in school psychology at the specialist's or higher degree level which includes six (6) semester hours of graduate credit in a year-long supervised school psychology internship in an elementary or secondary school, or

(2) Plan Two. A master's or higher degree and completion of a graduate program in school psychology which includes sixty (60) semester hours of graduate credit in school psychology to include the areas specified below:

(a) Credit in each of the following six core competency areas:

1. Psychological foundations;
2. Educational foundations;
3. Psychoeducational assessment;
4. Interventions and specialized techniques;
5. Statistics, measurement, and research design; and
6. Professional school psychology;

(b) Three (3) semester hours in a supervised practicum in school psychology in addition to the internship in paragraph (2)(c) of this rule; and

(c) Six (6) semester hours in a year-long supervised school psychology internship in an elementary or secondary school. No more than twelve (12) semester hours of credit in the internship shall be accepted; or

(3) Plan Three. A master's or higher degree with completion of a graduate program in school psychology and three (3) years of full-time experience as a school psychologist in an elementary or secondary school. The experience shall be acceptable provided the applicant held a valid full-time school psychologist certificate issued by the state where the experience was gained, or

(4) Plan Four. A master's or higher degree with sixty (60) semester hours of graduate credit in school psychology to include the areas specified below:

(a) Twelve (12) semester hours in psychological foundations. Courses in this area include: abnormal psychology, biological bases of behavior, cultural diversity, child psychology, adolescent psychology, psychology of exceptional students, human learning, personality, and social bases of behavior;

(b) Six (6) semester hours in educational foundations. Courses in this area include: education of exceptional learners, instructional and remedial techniques, and organi-

zation and operation of schools;

(c) Nine (9) semester hours in psychoeducational assessment to include three (3) semester hours in individual intellectual assessment. Courses in this area include individual intellectual assessment, psychoeducational assessment, and personality or behavior assessment;

(d) Nine (9) semester hours in interventions and specialized techniques. Courses in this area include consultation, counseling, applied behavioral analysis, behavior management, and prescriptive intervention;

(e) Six (6) semester hours in statistics, measurement, and research design. Courses in this area include: statistics, testing and measurement, research design, and program evaluation;

(f) Three (3) semester hours in professional school psychology. Courses in this area include: history and foundations of school psychology, legal and ethical issues, professional issues affecting school psychologists, and rules and functions of the school psychologist;

(g) Three (3) semester hours in a supervised practicum in school psychology in addition to the internship in paragraph (4)(h) of this rule. Three (3) years of full-time experience as a school psychologist in an elementary or secondary school will satisfy the supervised practicum requirement. The experience shall be acceptable provided the applicant held a valid full-time school psychologist certificate issued by the state where the experience was gained; and

(h) Six (6) semester hours in a year-long supervised school psychology internship in an elementary or secondary school. The internship shall total at least twelve hundred (1200) clock hours with at least six hundred (600) clock hours in an elementary or secondary school. The internship shall be completed at an institution which offers a master's or higher degree major in school psychology. No more than twelve (12) semester hours of credit in the internship shall be accepted. Three (3) years of full-time experience as a school psychologist as described in paragraph (4)(g) of this rule will satisfy the internship requirement, or

(5) Plan Five. A valid certificate as a Nationally Certified School Psychologist issued by the National School Psychology Certification System.

(6) This rule shall take effect July 1, 1992.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92.

#### **6A-4.035 Specialization Requirements for Certification in School Social Worker (Grades PK-12)—Specialty Class.**

A bachelor's or higher degree with an undergraduate or graduate major in social work. The program shall be accredited by the National Council on Social Work Education or the institution shall be accredited in accordance with the provisions of Rule 6A-4.003, FAC.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 231.02, 231.145, 231.15, 231.17 FS. History - New 4-20-64, Amended 7-7-68, Revised 8-17-74, Repromulgated 12-5-74, Formerly 6A-4.35, Amended 12-4-89, 11-13-96.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-6

### Special Programs for Exceptional Students

#### **6A-6.021 State of Florida High School Diplomas.**

The Commissioner shall award a State of Florida high school diploma pursuant to Section 1003.435, F.S., to a candidate who meets all of the requirements prescribed herein and has attained on each of the five (5) General Education Development Tests a minimum score of 410 or above on a scale of "0" to "800", with an average score of 450.

(1) The Department shall designate official testing centers in the state which are authorized to act as agents of the state in administering the GED Tests. The Department shall provide tests and test materials annually to the official testing centers, provide test scoring and reporting services, maintain a perpetual record of individual test results, and issue state of Florida high school diplomas to successful candidates.

(2) Each official testing center shall establish a schedule for testing which adequately meets the needs of the candidates within its service area.

(3) Each district shall establish a fee of not less than the total national and state required fees nor more than seventy (70) dollars for each candidate taking the entire test battery consisting of the five (5) GED Tests. This fee shall be paid at the time the application is filed. A fee of not less than the total national and state required fees nor more than the ten (10) dollars shall be paid by each candidate for each retake of the Social Studies, Science, Reading, and Mathematics tests. A fee of not less than the total national and state required fees nor more than twelve (12) dollars shall be paid by the candidate for each retake of the Writing Skills Test. However, the school board, community college, or agency administering the testing center may authorize the waiver, on a uniform or, on an individual basis, of all or any portion of the fees prescribed in this subsection.

(4) In order to defray state costs for the testing program, each school board, community college, or agency administering the GED Tests shall remit to the Department the following fees:

- (a) Entire battery of five (5) tests: seventeen (17) dollars.
- (b) Retake of the Social Studies, Science, Reading, and Mathematics tests: four (4) dollars.
- (c) Retake of the Writing Skills test: five (5) dollars.
- (d) Duplication of diploma: four (4) dollars.
- (e) Duplication of transcript: four (4) dollars.
- (f) Conversion of scores from applicants who have taken the GED in the military: seven (7) dollars.

(5) The Chief Examiner of each official testing center shall inform all candidates of testing opportunity and retesting limitations.

(6) Each candidate taking the GED Tests will be issued an official transcript of scores. A candidate who fails to attain the required minimum scores on the initial GED Tests may test a maximum of three (3) times in each subject area

during the GED contract year.

(a) Each request directed to the Department for duplication of diploma shall be charged at a rate of six (6) dollars.

(b) Each request directed to the Department for duplication of transcript shall be charged at a rate of six (6) dollars.

Specific Authority 1001.02(1), 1003.435(1), (5) FS. Law Implemented 1003.435 FS. History--Amended 2-20-64, 4-11-70, 6-7-70, 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 6-7-77, 1-1-79, 9-1-79, 12-7-82, 7-10-85, Formerly 6A-6.21, Amended 12-21-87, 3-1-98, 5-19-08, 9-22-08.

#### **6A-6.03011 Exceptional Student Education Eligibility for Students with Intellectual Disabilities.**

(1) Definition. Students with intellectual disabilities. An intellectual disability is defined as significantly below average general intellectual and adaptive functioning manifested during the developmental period, with significant delays in academic skills. Developmental period refers to birth to eighteen (18) years of age.

(2) General education interventions and activities. Prior to referral for evaluation the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the minimum evaluation for determining eligibility shall include all of the following:

- (a) A standardized individual test of intellectual functioning individually administered by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, F.S.;
- (b) A standardized assessment of adaptive behavior to include parental or guardian input;
- (c) An individually administered standardized test of academic or pre-academic achievement. A standardized developmental scale shall be used when a student's level of functioning cannot be measured by an academic or pre-academic test; and
- (d) A social-developmental history which has been compiled directly from the parent, guardian, or primary caregiver.

(4) Criteria for eligibility. A student with an intellectual disability is eligible for exceptional student education if all of the following criteria are met:

- (a) The measured level of intellectual functioning is more than two (2) standard deviations below the mean on an individually measured, standardized test of intellectual functioning;
- (b) The level of adaptive functioning is more than two (2) standard deviations below the mean on the adaptive behavior composite or on two (2) out of three (3) domains on a standardized test of adaptive behavior. The adaptive behavior measure shall include parental or guardian input;
- (c) The level of academic or pre-academic performance on a standardized test is consistent with the per-

formance expected of a student of comparable intellectual functioning;

(d) The social/developmental history identifies the developmental, familial, medical/health, and environmental factors impacting student functioning and documents the student's functional skills outside of the school environment; and

(e) The student needs special education as defined in Rules 6A-6.0331 and 6A-6.03411, F.A.C.

(5) Documentation of determination of eligibility. Eligibility is determined by a group of qualified professionals and the parent or guardian in accordance with paragraph 6A-6.0331(6)(a), F.A.C. The documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection 6A-6.0331(6), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic and intellectual functioning;

(c) The educationally relevant medical findings, if an

(d) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, or emotional/behavioral disability; cultural factors; environmental or economic factors, an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(e) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusion.

Specific Authority 1001.02(1), (2)(n), 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1001.02(2)(n), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c) FS. History—New 7-1-77, Amended 7-2-79, Formerly 6A-6.3011, Amended 5-17-88, 1-4-09.

### **6A-6.03012 Special Programs for Students Who Are Speech and Language Impaired.**

(1) Definition. Speech and language impairments are defined as disorders of language, articulation, fluency, or voice which interfere with communication, preacademic or academic learning, vocational training, or social adjustment.

(a) An impairment in the language system is abnormal processing or production of:

1. Form including phonology, syntax, and morphology,
2. Content including semantics, or
3. Function including pragmatics.

(b) An impairment in articulation is substitutions, distortions, or omissions of speech sounds which are of a nonmaturational nature.

(c) An impairment in fluency is abnormal flow of speech which impairs rate and rhythm and may be accompanied by struggle behavior.

(d) An impairment in voice is absence or abnormal production of voice quality, pitch, loudness, resonance, or

duration.

(2) Criteria for eligibility. A student is eligible for special programs in speech and language if the student meets criteria as determined by the procedures in Rules 6A-6.0331 and 6A-6.0341, FAC., and if a disorder exists in one (1) or more of the following:

(a) Language. A language disorder is present when:

1. For students below age five (5), there is a significant language delay based on criteria presented in the test or evaluation manual and at least one (1) of the following is met:

- a. There is a significant difference between language performance and other developmental behaviors; or
- b. There is a significant difference between receptive and expressive language abilities.

2. For students ages five (5) and above, the language scores on standardized tests are more than one (1) standard deviation below the mean for the student's chronological age and at least one (1) of the following is met:

- a. There is a significant difference between language performance and nonverbal performance; or
- b. There is a significant difference between receptive and expressive language scores; or
- c. Two (2) or more, but not all, components of the language system are moderately or severely impaired on a language severity rating scale.

(b) Articulation. An articulation disorder is present when at least one (1) of the following is met:

1. Based on normative data, the frequency of incorrect sound production and the delay of correct sound production are significant; or
2. The error pattern is characteristic of disordered rather than delayed acquisition; or
3. Articulation is rated as moderately or severely impaired on an articulation severity rating scale.

(c) Fluency. A fluency disorder is present when:

1. Fluency is rated as mildly, moderately, or severely impaired on a fluency severity rating scale, and
2. There are supportive data presented by a primary caregiver, a teacher-educator, or the student when appropriate, in addition to a speech-language pathologist, that a disorder exists.

(d) Voice. A voice disorder is present when:

1. Voice is rated as moderately or severely impaired on a voice severity rating scale, and
2. There are supportive data presented by a primary caregiver, a teacher-educator, or the student when appropriate, in addition to a speech-language pathologist, that a disorder exists.

(3) Procedures for screening.

(a) Students being considered for language or speech programs shall be screened for hearing and vision.

(b) Students being considered for exceptional student programs, excluding gifted and homebound or hospitalized who may be screened on a referral basis, shall be screened for language, articulation, fluency and voice disorders prior to staffing for eligibility.

(4) Procedures for student evaluation.

(a) Speech-language pathologists shall be responsible for implementing and conducting diagnostic assessments

of language, articulation, fluency, or voice disorders.

(b) A case history shall be included as part of the assessment data when determined appropriate by the speech-language pathologist.

(c) Medical and psychological evaluations shall be requested by the speech-language pathologist when appropriate.

(5) Procedures for determining eligibility and educational assignment.

(a) A speech-language pathologist shall be a member of any eligibility staffing committee reviewing speech and language evaluation data.

(b) A speech-language pathologist shall be involved in the development of the individual educational plans for eligible speech and language impaired students.

(6) Instructional Program.

(a) The instructional program shall be based on the student's individual educational plan or family support plan.

(b) Speech-language services shall be provided by a speech-language pathologist, pursuant to Rule 6A-4.0176, FAC., a licensed speech-language pathologist pursuant to Section 468.1185, Florida Statutes, or a speech-language associate, pursuant to Rule 6A-4.01761, FAC.

1. Speech-language services provided by an associate, as specified in Rule 6A-4.01761, FAC., must be under the direction of a certified or licensed speech-language pathologist with a master's degree or higher. Services under this subsection can be provided for a period of no more than three (3) years as described in Section 231.167, Florida Statutes, in districts that qualify for the sparsity supplement as described in Section 236.081(6), Florida Statutes.

2. Districts shall submit a plan to the Department of Education for approval before implementation of Rule 6A-4.01761, FAC. The components of the plan must include a description of:

a. the model specifying the type and amount of direction including, but not limited to, direct observation, support, training, and instruction;

b. the rationale for using this model;

c. the manner in which the associate will demonstrate competency;

d. the process for monitoring the quality of services; and

e. the measurement of student progress.

This plan must also describe the process for changing the intensity of direction for the associate based upon the associate's demonstrated competencies and their students' needs and progress.

(c) This rule shall be reviewed by the Florida Board of Education by October 1, 2003.

Specific Authority 231.15(1), 231.167, 231.17 FS. Law Implemented 230.23(4)(m), 231.02, 231.15 FS. History - New 7-1-77, Amended 7-13-83, Formerly 6A-6.3012, Amended 8-1-88, 9-17-2001.

#### **6A-6.03013 Exceptional Student Education Eligibility for Students Who are Deaf or Hard-of-Hearing.**

(1) Definition. Students who are deaf or hard-of-hearing. A student who is deaf or hard-of-hearing has a

hearing loss aided or unaided, that impacts the processing of linguistic information and which adversely affects performance in the educational environment. The degree of loss may range from mild to profound.

(2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions of subsection 6A-6.0331(4), F.A.C., the evaluation for a student must also include the procedures identified in the district's Policy and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student who is deaf or hard-of-hearing is eligible for exceptional student education if the following criteria are met:

(a) An audiological evaluation documents a permanent or fluctuating hearing threshold level that interferes with progress in any one (1) of the following areas: developmental skills or academic performance, social-emotional development, or linguistic and communicative skills as evidenced by:

1. 25 decibel (db)  $\pm$  5 dB or greater based on pure tone average or average of 500, 1000, and 2000 Hz unaided in the better ear; or

2. A high frequency hearing threshold level of 25 dB  $\pm$  5 dB or greater based on pure tone average of 1000, 2000, and 3000 Hz unaided in the better ear; or

3. A unilateral hearing threshold level of 50 dB  $\pm$  5 dB or greater based on pure tone average of 500, 1000, and 2000 Hz unaided; or

4. Auditory Evoked Potential responses evidencing permanent hearing loss at multiple frequencies equivalent to or in excess of the decibel hearing loss threshold criteria for pure tone audiometric testing specified in subparagraphs (4)(a) 1., 2., and 3., above; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

(5) A screening for Usher's Syndrome shall be administered to each student who is deaf or hard-of-hearing at least once during grades 6-12.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 1001.03, 1003.57(1)(e), 1003.01(3), 1003.21(1), 1011.62 FS. History-New 7-1-77, Amended 9-11-84, Formerly 6A-6.3013, Amended 7-1-94, 7-1-07.

#### **6A-6.03014 Exceptional Student Education Eligibility for Students Who Are Visually Impaired.**

(1) Definition. Students who are visually impaired include the following:

(a) A student who is blind, has no vision, or has little potential for using vision.

(b) A student who has low vision.

(c) The term visual impairment does not include students who have learning problems that are primarily the result of visual perceptual and/or visual motor difficulties.

(2) Activities Prior to Referral. Prior to referral for evaluation, the requirements in Rule 6A-6.0331, F.A.C., must be met.

(3) Procedures for student evaluation.

(a) The minimum procedures necessary for determining eligibility shall include:

1. A medical eye examination describing: etiology, diagnosis, treatment regimen, prognosis, near/distance, corrected/uncorrected acuity measures for left eye, right eye and both eyes, measure of field of vision, and recommendations for lighting levels, physical activity, aids, or use of glasses, as appropriate. For children birth to five (5) years of age or students who are otherwise unable to be assessed, a medical assessment describing visual functioning shall be documented when standard visual acuities and measure of field of vision are unattainable.

2. If a medical criterion listed in paragraph (4)(a) of this rule is met, then in addition to the provisions of Rule 6A-6.0331, F.A.C., a comprehensive assessment of skills known to be impacted by visual impairment, shall include, but is not limited to: functional vision evaluation, learning media assessment, and, if appropriate, orientation and mobility assessment.

(b) Reevaluation shall occur at least every three (3) years and shall include a minimum of a medical eye examination within the last calendar year, functional vision assessment, learning media assessment, and, if appropriate, any other formal evaluations addressed in the initial evaluation in accordance with Rule 6A-6.0331, F.A.C. The medical aspect of a reevaluation for students with bilateral anophthalmia may be waived by a written recommendation of a physician.

(4) Criteria for eligibility. A student is eligible for special education and related services if the following medical and educational criteria are met:

(a) Medical. A licensed ophthalmologist or optometrist has documented an eye condition that causes an impairment as manifested by at least one of the following:

1. A visual acuity of 20/70 or less in the better eye after best possible correction;

2. A peripheral field so constricted that it affects the student's ability to function in an educational setting;

3. A progressive loss of vision which may affect the student's ability to function in an educational setting, not including students who have learning problems that are primarily the result of visual perceptual and/or visual motor difficulties, or,

4. For children birth to five (5) years of age or students who are otherwise unable to be assessed, bilateral lack of central, steady, or maintained fixation of vision with an estimated visual acuity of 20/70 or less after best possible correction; bilateral central scotoma involving the perimacula area (20/80-20/200); bilateral grade III, IV, or V Retinopathy of Prematurity (ROP); or documented eye impairment as stated in paragraph (3)(a) of this rule.

(b) The student needs special education as defined in Rules 6A-6.0331 and 6A-6.03411, F.A.C.

(5) Supportive services.

(a) The district shall make available the professional services needed to support the program. This shall include registration of all students who are visually impaired for services from the Florida Instructional Materials Center for the Visually Impaired.

(b) Other support services may include, but are not

limited to:

1. Provision of specialized textbooks, learning materials, assessment materials, and equipment; and

2. Cooperative planning with the Division of Blind Services, including parent involvement activities.

Specific Authority 1001.02, 1001.42(4)(1), 1003.3(a), (b), 1003.55, 1003.57 FS. Law Implemented 1001.02, 1010.305(2), 1003.57, 1011.62(1)(c) FS. History—New 7-1-77, Amended 7-13-83, Formerly 6A-6.3014, Amended 2-12-91, 3-1-08.

#### **6A-6.030151 Exceptional Student Education Eligibility for Students Who are Physically Impaired with Orthopedic Impairment.**

(1) Definition. Orthopedic impairment means a severe skeletal, muscular, or neuromuscular impairment. The term includes impairments resulting from congenital anomalies (e.g. including but not limited to skeletal deformity or spina bifida), and impairments resulting from other causes (e.g., including but not limited to cerebral palsy or amputations).

(2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(4), F.A.C., the evaluation for a student must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student with an orthopedic impairment is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of an orthopedic impairment that adversely affects the student's performance in the educational environment in any of the following: ambulation, hand movement, coordination, or daily living skills, and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 1001.03, 1003.01(3), 1003.21(1), 1003.57(1)(e), 1011.62 FS. History—New 7-1-07.

#### **6A-6.030152 Exceptional Student Education Eligibility for Students Who are Physically Impaired with Other Health Impairment.**

(1) Definition. Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems. This includes, but is not limited to, asthma, attention deficit disorder or attention deficit hyperactivity disorder, Tourette syndrome, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and acquired brain injury.

(2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(4), F.A.C., the evaluation for a student

must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student with another health impairment is eligible for exceptional student education if the following criteria are met:

(a) Evidence of another health impairment that results in reduced efficiency in schoolwork and adversely affects the student's performance in the educational environment, and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 1001.03, 1003.01(3), 1003.21(1), 1003.57(1)(e), 1011.62 FS. History-New 7-1-07.

#### **6A-6.030153 Exceptional Student Education Eligibility for Students Who Are Physically Impaired With Traumatic Brain Injury.**

(1) Definition. A traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to mild, moderate, or severe, open or closed head injuries resulting in impairments in one (1) or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, or speech. The term includes anoxia due to trauma. The term does not include brain injuries that are congenital, degenerative, or induced by birth trauma.

(2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(4), F.A.C., the evaluation for a student must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student with a traumatic brain injury is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of a traumatic brain injury that impacts one or more of the areas identified in subsection (1) of this rule.

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 1001.03, 1003.01(3), 1003.21(1), 1003.57(1)(e), 1011.62 FS. History-New 7-1-07.

#### **6A-6.03016 Exceptional Student Education Eligibility for Students with Emotional/Behavioral Disabilities.**

(1) Definition. Students with an emotional/behavioral disability (E/BD). A student with an emotional/behavioral disability has persistent (is not sufficiently responsive to implemented evidence based interventions) and consistent

emotional or behavioral responses that adversely affect performance in the educational environment that cannot be attributed to age, culture, gender, or ethnicity.

(2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(4), F.A.C., the evaluation for a student must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student with an emotional/behavioral disability must demonstrate an inability to maintain adequate performance in the educational environment that cannot be explained by physical, sensory, socio-cultural, developmental, medical, or health (with the exception of mental health) factors; and must demonstrate one or more of the following characteristics described in paragraph (4) (a) or (4)(b) of this rule and meet the requirements of paragraphs (4)(c) and (4)(d) of this rule:

(a) Internal factors characterized by:

1. Feelings of sadness, or frequent crying, or restlessness, or loss of interest in friends and/or school work, or mood swings, or erratic behavior; or

2. The presence of symptoms such as fears, phobias, or excessive worrying and anxiety regarding personal or school problems; or

3. Behaviors that result from thoughts and feelings that are inconsistent with actual events or circumstances, or difficulty maintaining normal thought processes, or excessive levels of withdrawal from persons or events; or

(b) External factors characterized by:

1. An inability to build or maintain satisfactory interpersonal relationships with peers, teachers, and other adults in the school setting; or

2. Behaviors that are chronic and disruptive such as noncompliance, verbal and/or physical aggression, and/or poorly developed social skills that are manifestations of feelings, symptoms, or behaviors as specified in subparagraph (4)(a) 1.-3. of this rule.

(c) The characteristics described in paragraph (4)(a) or (b) of this rule must be present for a minimum of six (6) months duration and in two (2) or more settings, including but not limited to, school, educational environment, transition to and/or from school, or home/community settings. At least one (1) setting must include school.

(d) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

(e) In extraordinary circumstances, activities prior to referral for evaluation as described in subsection (2) of this rule and criteria for eligibility described in paragraph (4)(c) of this rule may be waived when immediate intervention is required to address an acute onset of an internal emotional/behavioral characteristic as listed in paragraph (4)(a) of this rule.

(5) Characteristics not indicative of a student with an emotional/behavioral disability:

(a) Normal, temporary (less than six (6) months) reactions to life event(s) or crisis, or

(b) Emotional/behavioral difficulties that improve significantly from the presence of evidence based implemented interventions, or

(c) Social maladjustment unless also found to have an emotional/behavioral disability.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 1001.03, 1003.57(1)(e), 1003.01(3), 1003.21(1), 1011.62 FS. History-New 7-1-77, Amended 10-23-79, 11-25-80, 1-6-83, 9-27-84, 3-10-85, Formerly 6A-6.3016, Amended 7-1-07.

### **6A-6.03018 Special Programs for Students with Specific Learning Disabilities.**

(1) Definition. Specific learning disabilities refers to a heterogeneous group of psychological processing disorders manifested by significant difficulties in the acquisition and use of language, reading, writing, or mathematics. These disorders are intrinsic to the individual and may occur across the life span. Although specific learning disabilities may occur concomitantly with other handicapping conditions or with extrinsic influences, the disabilities are not primarily the result of those conditions or influences.

(2) Criteria for eligibility. A student is eligible for special programs for specific learning disabilities if the student meets all of the following criteria as determined by the procedures prescribed in Rules 6A-6.0331 and 6A-6.03411, FAC.

(a) Documented evidence which indicates that general education interventions have been attempted and found to be ineffective in meeting the student's educational needs.

(b) Evidence of a disorder in one (1) or more of the basic psychological processes required for learning. A psychological process is a set of mental operations that transform, access, or manipulate information. A disorder in a psychological process is a relatively enduring and stable feature of an individual's cognitive skills that limits the ability to perform specific academic or developmental learning tasks. Processing deficits may manifest themselves differently at different developmental levels.

1. Documentation of process disorder must include one (1) standardized instrument in addition to the instrument used to determine the student's level of intellectual functioning.

2. In addition, a district may establish criteria for the use of more than one (1) instrument to determine a process disorder and other criteria which will assist in determining a process disorder.

(c) Evidence of academic achievement which is significantly below the student's level of intellectual functioning.

1. For students below age seven (7), evidence must be presented that the student exhibits a significant discrepancy between levels of intellectual functioning and achievement on tasks required for basic reading skills, reading comprehension, oral expression, listening comprehension, mathematics calculation, mathematics reasoning, or written expression.

2. For students ages seven (7) through ten (10), evidence must be presented that the student exhibits a discrepancy of one (1) standard deviation or more between an intellectual standard score and achievement standard score in basic reading skills, reading comprehension, oral

expression, listening comprehension, mathematics calculation, mathematics reasoning, or written expression.

3. For students ages eleven (11) and above, evidence must be presented that the student exhibits a discrepancy of one and one-half (1 1/2) standard deviations or more between an intellectual standard score and achievement standard score in basic reading skills, reading comprehension, oral expression, listening comprehension, mathematics calculation, mathematics reasoning, or written expression.

4. A district may establish criteria for the use of more than one (1) instrument to determine a deficit area, and other criteria which will assist in determining an academic deficit.

(d) Evidence that learning problems are not due primarily to other handicapping conditions.

1. For students with intellectual deficits, evidence that intellectual functioning is no more than two (2) standard deviations below the mean on an individual test of intellectual functioning or evidence that a score below two (2) standard deviations below the mean is not a reliable indicator of the student's intellectual potential.

2. For students with inadequate performance on learning tasks involving visual input deficits, evidence that visual acuity is at least 20/70 in the better eye with best possible correction or evidence that the student's inability to perform adequately on learning tasks is not primarily due to poor visual acuity.

3. For students with inadequate performance on learning tasks involving auditory input, evidence that loss of auditory acuity is no more than thirty (30) decibels in the better ear unaided or evidence that the student's inability to perform adequately on learning tasks is not primarily due to poor auditory acuity.

4. For students with a physical impairment, evidence that their inability to perform adequately on learning tasks is not primarily due to the physical impairment.

5. For students with an emotional handicap, evidence that their inability to perform adequately on learning tasks is not primarily due to their emotional handicap.

6. For students who are determined to be environmentally deprived, culturally different, or economically disadvantaged, evidence that their inability to perform adequately on learning tasks is not due primarily to environmental deprivation, cultural difference, or economic disadvantage.

(3) Procedures for student referral. Prior to referral for student evaluation, the student's learning problem shall be addressed at the school level.

(a) The minimum procedures shall include

1. Identification of the student's learning problem and current functioning level in school.

2. At least two (2) conferences concerning the student's specific problem. These conferences shall include the parents or guardian and administrative personnel, student services personnel or teaching personnel;

3. At least two (2) observations of the student's behavior which indicate the learning problem. At least one (1) of the observations shall be conducted by a member of the multidisciplinary evaluation team other than the child's regular classroom teacher;

4. At least two (2) educational interventions at the school level appropriate for the learning problem at the student's current level of functioning;

5. Screening for vision, hearing, speech and language functioning with referral for complete evaluations where the need is indicated;

6. Review of social, psychological, medical, and achievement data in the student's cumulative record; and

7. Review of attendance record, and where applicable, investigation of reasons for excessive absenteeism.

(b) Documentation of these efforts shall be incorporated with the written referral and shall show these efforts to have been ineffective in meeting the student's educational needs.

(4) Procedures for student evaluation. Instruments selected for use in the evaluation of psychological processes, intellectual functioning and academic achievement shall be administered and interpreted in conformance with instructions provided by their producers. The following evaluations and procedures are required to determine a student's eligibility and educational placement:

(a) A review of all documentation and data required by subsection (3) of this rule;

(b) A standardized individual test of intellectual functioning administered by a professional person qualified in accordance with Rule 6A-6.071(6), FAC.;

(c) An evaluation to determine the student's level of functioning in the basic psychological process areas; and

(d) An individually administered evaluation of academic achievement.

(5) The multidisciplinary evaluation team

(a) For students suspected of having a specific learning disability, the multidisciplinary evaluation team shall include the following personnel:

1. The student's regular teacher, or

a. If the student does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or

b. For a student of less than school age, an individual qualified to teach a child of his or her age; and

2. At least one (1) person qualified to conduct individual diagnostic examinations.

(b) The team must meet to consider the evaluation findings. If all members can not be present, their findings may be presented by representatives of their disciplines.

(c) A written report shall be prepared which reflects the findings of the multidisciplinary evaluation team. The report shall include the following components:

1. Whether or not the student has a specific learning disability;

2. The basis for making the determination

3. The relevant behavior noted during the observation of the student;

4. The relationship of that behavior to the student's academic functioning;

5. The educationally relevant medical findings, if an

6. The determination of the team concerning evidence that the student's learning problems are not primarily due to other handicapping conditions;

7. The determination of the team concerning the

effects of environment, cultural difference, or economic disadvantage;

8. Whether there is a severe discrepancy between achievement and ability which requires exceptional student education and related services; and

(d) Each team member shall certify in writing whether or not the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

(6) This rule shall take effect July 1, 1994, for all school districts.

Specific Authority 229.053(1), 230.23(4)(m), 236.081(1)(c) FS. Law Implemented 228.041(18)(19), 229.565(3)(b)(c), 230.23(4)(m)4., 236.081(1)(c) FS. History - New 7-1-77, Amended 7-2-79, 7-14-82, Formerly 6A-6.3018, Amended 1-11-94.

#### **6A-6.03019 Special Instructional Programs for Students Who Are Gifted.**

(1) Gifted. One who has superior intellectual development and is capable of high performance.

(2) Criteria for eligibility. A student is eligible for special instructional programs for the gifted if the student meets the criteria under paragraph (2)(a) or (b) of this rule.

(a) The student demonstrates:

1. Need for a special program.

2. A majority of characteristics of gifted students according to a standard scale or checklist, and

3. Superior intellectual development as measured by an intelligence quotient of two (2) standard deviations or more above the mean on an individually administered standardized test of intelligence.

(b) The student is a member of an under-represented group and meets the criteria specified in an approved school district plan for increasing the participation of under-represented groups in programs for gifted students.

1. For the purpose of this rule, under-represented groups are defined as groups:

a. Who are limited English proficient, or

b. Who are from a low socio-economic status family.

2. The Department of Education is authorized to approve school district plans for increasing the participation of students from under-represented groups in special instructional programs for the gifted, provided these plans include the following:

a. A district goal to increase the percent of students from under-represented groups in programs for the gifted and the current status of the district in regard to that goal;

b. Screening and referral procedures which will be used to increase the number of these students referred for evaluation;

c. Criteria for determining eligibility based on the student's demonstrated ability or potential in specific areas of leadership, motivation, academic performance, and creativity;

d. Student evaluation procedures, including the identification of the measurement instruments to be used;

e. Instructional program modifications or adaptations to ensure successful and continued participation of students from under-represented groups in the existing instructional program for gifted students;

f. An evaluation design which addresses evaluation of progress toward the district's goal for increasing participation by students from under-represented groups.

(3) Procedures for student evaluation. The minimum evaluations for determining eligibility are the following:

(a) Need for a special instructional program,

(b) Characteristics of the gifted,

(c) Intellectual development, and

(d) May include those evaluation procedures specified in an approved district plan to increase the participation of students from under-represented groups in programs for the gifted.

Specific Authority 229.053(1), 230.23(4)(m) FS. Law Implemented 228.041(18) (19), 229.565(2)(b)(c), 230.23(4)(m) FS. History - New 7-1-77, Formerly 6A-6.3019, Amended 10-10-91, 5-19-98, 7-14-02.

### **6A-6.030191 Development of Educational Plans for Exceptional Students who are Gifted.**

Educational Plans (EPs) are developed for students identified solely as gifted. Parents are partners with schools and school district personnel in developing, reviewing, and revising the educational plan (EP) for their child. Procedures for the development of the EPs for exceptional students who are gifted, including procedures for parental involvement, shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students document and shall be consistent with the following requirements.

(1) Role of parents. The role of parents in developing EPs includes:

(a) Providing critical information regarding the strengths of their child;

(b) Expressing their concerns for enhancing the education of their child so that they receive a free appropriate public education;

(c) Participating in discussions about the child's need for specially designed instruction;

(d) Participating in deciding how the child will be involved and progress in the general curriculum; and

(e) Participating in the determination of what services the school district will provide to the child and in what setting.

(2) Parent participation. Each school board shall establish procedures which shall provide for parents to participate in decisions concerning the EP. Such procedures shall include the following:

(a) Each district shall take the following steps to ensure that one (1) or both of the parents of a student who is gifted is present or is afforded the opportunity to participate at each EP meeting:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

2. Scheduling the meeting at a mutually agreed on time and place.

(b) A written notice to the parents must indicate the purpose, time, location of the meeting, and who, by title and or position, will be attending. The notice must also include a statement informing the parents that they have

the right to invite an individual with special knowledge or expertise about their child.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents understand the proceedings at an EP meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the EP at no cost to the parents.

(3) Educational plan (EP) team participants. The EP team shall include the following participants:

(a) The parents of the student in accordance with subsection (2) of this rule;

(b) One regular education teacher of the student who, to the extent appropriate, is involved in the development and review of a student's EP. Involvement may be the provision of written documentation of a student's strengths and needs.

(c) At least one teacher of the gifted program

(d) A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students who are gifted, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, one of the student's teachers may be designated to also serve as the representative of the school district;

(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team as described in paragraphs (3) (b)-(d) of this rule;

(f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student. The determination of knowledge or special expertise of any individual shall be made by the party who invites the individual to be a member of the EP team; and

(g) The student, as appropriate

(4) Contents of Educational Plans (EPs). EPs for students who are gifted must include:

(a) A statement of the student's present levels of performance which may include, but is not limited to, the student's strengths and interests, the student's needs beyond the general curriculum, results of the student's performance on state and district assessments, and evaluation results;

(b) A statement of goals, including benchmarks or short term objectives;

(c) A statement of the specially designed instruction to be provided to the student;

(d) A statement of how the student's progress toward the goals will be measured and reported to parents; and

(e) The projected date for the beginning of services, and the anticipated frequency, location, and duration of those services;

(5) Considerations in EP development, review and revision. The EP team shall consider the following:

(a) The strengths of the student and needs resulting from the student's giftedness.

(b) The results of recent evaluations, including class work and state or district assessments.

(c) In the case of a student with limited English proficiency, the language needs of the student as they relate to the EP.

(6) Timelines. Timelines for EP meetings for students who are gifted shall include the following:

(a) An EP must be in effect at the beginning of each school year.

(b) An EP shall be developed within thirty (30) calendar days following the determination of eligibility for specially designed instruction and shall be in effect before the provision of these services.

(c) Meetings shall be held to develop and revise the EP at least every three (3) years for students in grades K-8 and at least every four (4) years for students in grades 9-12. EPs may be reviewed more frequently as needed, such as when the student transitions from elementary to middle school and middle to high school or if the student's parent or teacher requests a review.

(7) EP Implementation. An EP must be in effect before specially designed instruction is provided to an eligible student and is implemented as soon as possible following the EP meeting.

(a) The EP shall be accessible to each of the student's teachers who are responsible for the implementation.

(b) Each teacher of the student shall be informed of specific responsibilities related to implementing the student's EP.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(5) FS. Law Implemented 1003.01(3)(a)(b), 1001.42(4)(l), 1011.62(1)(c), 1001.03(8), FS. History - New 9-20-04.

### **6A-6.03020 Specially Designed Instruction for Students Who Are Homebound or Hospitalized.**

(1) Homebound or hospitalized. A homebound or hospitalized student is a student who has a medically diagnosed physical or psychiatric condition which is acute or catastrophic in nature, or a chronic illness, or a repeated intermittent illness due to a persisting medical problem and which confines the student to home or hospital, and restricts activities for an extended period of time. The medical diagnosis shall be made by a licensed physician.

(2) The term licensed physician, as used in this rule, is defined in Chapters 458 and 459, F.S., and is one who is qualified to assess the student's physical or psychiatric condition.

(3) Criteria for eligibility. A student, who is homebound

or hospitalized, is eligible for specially designed instruction if the following criteria are met:

(a) A licensed physician must certify that the student:

1. Is expected to be absent from school due to a physical or psychiatric condition for at least fifteen (15) consecutive school days, or the equivalent on the block schedule, or due to a chronic condition, for at least fifteen (15) school days, or the equivalent on a block schedule, which need not run consecutively;

2. Is confined to home or hospital;

3. Will be able to participate in and benefit from an instructional program;

4. Is under medical care for illness or injury which is acute, catastrophic, or chronic in nature; and

5. Can receive instructional services without endangering the health and safety of the instructor or other students with whom the instructor may come in contact.

(b) The student is enrolled in a public school in kindergarten through twelfth grade prior to the referral for homebound or hospitalized services, unless the student meets criteria for eligibility under Rules 6A-6.03011, 6A-6.03012, 6A-6.03013, 6A-6.03014, 6A-6.03015, 6A-6.030152, 6A-6.030153, 6A-6.03016, 6A-6.03018, 6A-6.03022, 6A-6.03023, and 6A-6.03027, F.A.C.; and

(c) A parent, guardian or primary caregiver signs parental agreement concerning homebound or hospitalized policies and parental cooperation.

(4) Procedures for student evaluation.

(a) The minimum evaluation for a student to determine eligibility shall be an annual medical statement from a licensed physician(s) including a description of the disabling condition or diagnosis with any medical implications for instruction. This report shall state that the student is unable to attend school, describe the plan of treatment, provide recommendations regarding school re-entry, and give an estimated duration of condition or prognosis. The team determining eligibility may require additional evaluation data. This additional evaluation data must be provided at no cost to the parent.

(b) A physical reexamination and a medical report by a licensed physician(s) may be requested by the administrator of exceptional student education or the administrator's designee on a more frequent basis than required in paragraph (4)(a) of this rule and may be required if the student is scheduled to attend school part of a day during a recuperative period of readjustment to a full school schedule. This physical reexamination and medical report shall be provided at no cost to the parent.

(5) Procedures for determining eligibility. Procedures for determining eligibility shall be in accordance with Rule 6A-6.0331, F.A.C.

(6) Procedures for providing an individual educational plan. The individual educational plan shall be developed or revised prior to assignment to the homebound or hospitalized program placement as required in Rule 6A-6.03028, F.A.C. A student may be alternatively assigned to the homebound or hospitalized program and to a school-based program due to an acute, chronic, or intermittent condition as certified by a licensed physician, as specified in subparagraph (3)(a)1. of this rule. This decision shall be made

by the individual educational plan (IEP) team in accordance with the requirements of Rule 6A-6.03028, F.A.C.

(7) Instructional services. The following settings and instructional modes, or a combination thereof, are appropriate methods for providing instruction to students determined eligible for these services:

(a) Instruction in a home. The parent, guardian or primary caregiver shall provide a quiet, clean, well-ventilated setting where the teacher and student will work; ensure that a responsible adult is present; and establish a schedule for student study between teacher visits which takes into account the student's medical condition and the requirements of the student's coursework.

(b) Instruction in a hospital. The hospital administrator or designee shall provide appropriate space for the teacher and student to work and allow for the establishment of a schedule for student study between teacher visits.

(c) Instruction through telecommunications or computer devices. When the individual education plan (IEP) team determines that instruction is by telecommunications or computer devices, an open, uninterrupted telecommunication link shall be provided at no additional cost to the parent, during the instructional period. The parent shall ensure that the student is prepared to actively participate in learning.

Specific Authority 1001.02(1), (2)(n), 1003.01(3)(a), 1003.57(5) FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57(5), 1011.62(l)(c) FS. History—New 7-1-77, Amended 7-2-79, 4-27-82, Formerly 6A-6.3020, Amended 5-18-86, 9-20-04, 9-20-04, 1-16-08.  
Cf. PL 105-17 (20 USC 1401, 1412, 1414, 1415).

### **6A-6.03022 Special Programs for Students Who Are Dual-Sensory Impaired.**

(1) Dual-Sensory Impaired. A student who has dual-sensory impairments affecting both vision and hearing, the combination of which causes a serious impairment in the abilities to acquire information, communicate, or function within the environment, or who has a degenerative condition which will lead to such an impairment.

(2) Criteria. A student is eligible for a special program for students with dual-sensory impairments if the student has:

(a) One or more of the following visual impairments:  
1. A visual acuity of 20/70 or less in the better eye after best correction;

2. A peripheral field loss;  
3. A progressive vision loss, or  
4. Other documented visual conditions including but not limited to extreme light sensitivity or lack of contrast sensitivity; and

(b) One or more of the following hearing impairments:  
1. Hearing impairment of 30DB or greater unaided in the better ear;

2. Other documented auditory conditions including but not limited to monaural loss or an inability to screen out auditory background sounds, or

3. A progressive hearing loss; and

(c) A combination of the visual and auditory impairments as specified above which adversely effects, or has

the potential to adversely effect, the student's abilities to acquire information, communicate, or function within the environment, unless special instruction, materials, adaptations, or counseling are provided; or

(d) A diagnosed degenerative condition or syndrome which will lead to dual-sensory impairment and is likely to adversely affect the areas listed above.

(3) Procedures for student evaluation. The minimum evaluations which must be conducted to determine eligibility shall include:

(a) For students with a suspected degenerative condition or syndrome which will lead to dual-sensory impairment; a medical statement confirming the existence of such a condition or syndrome and its prognosis;

(b) For students who are under the age of three (3) years:

1. A medical eye exam describing etiology, diagnosis, and prognosis,

2. Documented observation of functional vision which includes possible impediments to visual use,

3. An audiological exam, an

4. Documented observation of auditory functioning.

(c) For students who are over the age of three (3) years:

1. All items included in paragraph (3)(b) of this rule

2. An assessment of speech and language functioning which includes a differential diagnosis of the student's linguistic abilities and of modality strengths and preferences, and

3. An assessment of intellectual functioning, developmental level, or academic functioning.

(4) Re-evaluation. Re-evaluation shall occur at least every three (3) years and shall include a minimum of the evaluations required in paragraph (3)(b) of this rule, and any other evaluations specified by an evaluation specialist and an exceptional student teacher after examination of available information in all areas addressed in the initial evaluation or in subsequent re-evaluations of the student in accordance with Rule 6A-6.03411(2)(i)1., FAC. The medical aspect of re-evaluation for students with bilateralanophthalmia may be waived by a written recommendation of a physician.

(5) Instructional Program. Each individual student who is dual-sensory impaired shall be served in any program or combination of programs for handicapped or non-handicapped students where the student can receive appropriate services. The district shall establish procedures to ensure that each student's program is adequately met.

(6) Registry. Information on all students who are dual-sensory impaired shall be submitted to the state's registry of students with dual-sensory impairments and to the Florida Instructional Materials Center for the Visually Handicapped, as required for access to certain specialized services.

(7) Funding. Students eligible for programs for students with dual-sensory impairments may be reported for FTE generation purposes at the weight for profoundly handicapped students any time they are served in classes with other handicapped students.

Specific Authority 229.053(1), 230.23(4)(m), 236.081(1)(c) FS. Law Implemented 228.041(18)(19), 229.565(3)(b)(c), 230.23(4)(m)4., 232.01(1)(e), 236.081(1)(c) FS. History - New 7-2-79, Formerly 6A-6.3022, Amended 10-3-91.

### **6A-6.03023 Exceptional Student Education Eligibility for Students with Autism Spectrum Disorder.**

(1) Definition. Students with Autism Spectrum Disorder. Autism Spectrum Disorder is defined to be a range of pervasive developmental disorders that adversely affects a student's functioning and results in the need for specially designed instruction and related services. Autism Spectrum Disorder is characterized by an uneven developmental profile and a pattern of qualitative impairments in social interaction, communication, and the presence of restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities. These characteristics may manifest in a variety of combinations and range from mild to severe. Autism Spectrum Disorder may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Aspergers Syndrome, or other related pervasive developmental disorders.

(2) Activities prior to referral. Prior to referral for evaluation the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the procedures identified in subsection 6A-6.0331(4), F.A.C., the evaluation must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.

(4) Criteria for eligibility. A student with Autism Spectrum Disorder is eligible for exceptional student education if all of the following criteria are met:

(a) Evidence of all of the following:

1. Uneven developmental profile as evidenced by inconsistencies across or within the domains of language, social interaction, adaptive behavior, and/or cognitive skills; and

2. Impairment in social interaction as evidenced by delayed, absent, or atypical ability to relate to people or the environment; and

3. Impairment in verbal and/or nonverbal language or social communication skills, and

4. Restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

Specific Authority 1001.02(1), 1003.57(1)(e) FS. Law Implemented 228.041(19), (20), 1001.03, 1003.01(3), 1003.57(1)(e), 1003.21(1), 1011.62 FS. History - New 7-2-79, Formerly 6A-6.3023, Amended 7-1-07.

### **6A-6.03024 Special Programs for Exceptional Students Who Require Physical Therapy.**

(1) Definition. An exceptional student who requires a specially prescribed program directed toward the development, improvement, or restoration of neuromuscular or sensorimotor function, relief of pain or control of postural deviations to attain the exceptional student's functional performance in an educational setting is eligible to receive

physical therapy.

(2) Criteria for eligibility. An exceptional student is eligible for a specially directed program for physical therapy if the exceptional student has:

(a) Identified physical impairments, motor deficits or developmental delays which significantly interfere with the achievement of learning; or

(b) Muscular or neuromuscular conditions, skeletal deformities, trauma or physically debilitating conditions which limit the student's ability to attain functional performance within the educational setting.

(3) Procedures for student evaluation. The minimum evaluation for the student shall include an evaluation by a physical therapist licensed in this state.

(4) Medical prescription. Prior to the determination of eligibility and in the event of a change in medical condition of the student, the school district shall have a written medical prescription for physical therapy signed by a health care practitioner, pursuant to the provisions of Section 486.021, Florida Statutes.

(5) Individual Educational Plan (IEP). Annually a physical therapist shall evaluate the student's progress in meeting those short term objectives stated in the IEP related to physical therapy.

(6) Instructional program.

(a) The instructional program shall be based on the student's individual educational plan and the plan of treatment developed by a physical therapist.

(b) Physical therapy may be provided by either a licensed physical therapist or a licensed physical therapist assistant pursuant to the provisions of Section 486.021, Florida Statutes.

Specific Authority 229.053(1), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. Law Implemented 228.041(19), 230.23(4)(m), 232.01, 236.081(1)(c) FS. History - New 11-25 80, Amended 2-4-81, Formerly 6A-6.3024, Amended 2-12-91, 9-30-96.

### **6A-6.03025 Special Programs for Exceptional Students Who Require Occupational Therapy.**

(1) Definition. An exceptional student whose physical motor or neurological deficits result in significant dysfunction in daily living skills, academic learning skills or adaptive social or emotional behaviors is eligible to receive occupational therapy.

(2) Criteria for eligibility. An exceptional student is eligible for a special program of occupational therapy if the exceptional student has identified significant developmental deficits, dysfunctions, or disabilities to a degree not otherwise provided for in the exceptional student education instructional environment.

(3) Procedures for student evaluation. The minimum evaluation for the student shall include an evaluation by an occupational therapist licensed in this state. Although a medical prescription is not required, appropriate medical records and social history may be reviewed as a part of the evaluation process.

(4) Individual Educational Plan (IEP). Annually an occupational therapist shall evaluate the student's progress in meeting those short term objectives in the IEP related to occupational therapy.

(5) Instructional Program.

(a) The instructional program shall be based on the student's individual educational plan and the plan of treatment developed by an occupational therapist.

(b) Occupational therapy may be provided by either a licensed occupational therapist or a licensed occupational therapy assistant pursuant to the provisions of Section 468.203, Florida Statutes.

Specific Authority 229.053(1), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. Law Implemented 228.041(19), 230.23(4)(m), 232.01, 236.081(1)(c) FS. History - New 11-25-80, Formerly 6A-6.3025, Amended 2-12-91.

**6A-6.03026 Special Programs for Prekindergarten Children with Disabilities.**

(1) A prekindergarten child with disabilities is a child who is below five (5) years of age on or before September 1 and has a sensory, physical, mental, or emotional condition which significantly affects the attainment of normal developmental milestones.

(2) Criteria for eligibility.

(a) A child is eligible for prekindergarten exceptional programs according to the following criteria:

1. The child is below three (3) years of age and meets criteria for eligibility specified for hearing impaired in Rule 6A-6.03013, FAC.; visually impaired in Rule 6A-6.03014, FAC.; physically impaired in Rule 6A-6.03015, FAC.; trainable mentally handicapped in Rule 6A-6.03011, FAC.; established condition in Rule 6A-6.03030, FAC.; or developmentally delayed in Rule 6A-6.03031, FAC.; or profoundly handicapped as specified in Rule 6A-6.0321, FAC. In addition, the child meets criteria for eligibility in subparagraph (2)(a)1. of this rule may be eligible for additional programs if the child meets criteria for eligibility specified for speech and language impaired in accordance with Rule 6A-6.03012, FAC.; physical therapy in accordance with Rule 6A-6.03024, FAC.; or occupational therapy in accordance with Rule 6A-6.03025, FAC.

2. The child is three (3) through five (5) years of age and meets criteria for eligibility specified for mentally handicapped in Rule 6A-6.03011, FAC.; speech and language impaired in Rule 6A-6.03012, FAC.; hearing impaired in Rule 6A-6.03013, FAC.; visually impaired in Rule 6A-6.03014, FAC.; physically impaired in Rule 6A-6.03015, FAC.; emotionally handicapped in Rule 6A-6.03016, FAC.; specific learning disabilities in Rule 6A-6.03018, FAC.; homebound or hospitalized in Rule 6A-6.03020, FAC.; profoundly handicapped as specified in Rule 6A-6.03021, FAC.; physical therapy in Rule 6A-6.03024, FAC.; occupational therapy in Rule 6A-6.03025, FAC.; or developmentally delayed in Rule 6A-6.03027, FAC.

3. The child is age five (5) or older on September 1 of the school year and is eligible for programs listed in subparagraphs (2)(a)1. and 2. of this rule, and is assigned to a prekindergarten program in accordance with the student's individual educational plan (IEP) or family support plan.

(b) Meetings held to recommend eligibility for special programs for children ages birth through five (5) shall be conducted in accordance with Rule 6A-6.0331(2)(c), FAC.

(3) Procedures for evaluation.

(a) An evaluation of the child shall be conducted in accordance with requirements of applicable special program rules listed in subparagraphs (2)(a)1. and 2. of this rule, except the prereferral activities shall not be required.

(b) Existing screening and evaluation information available from agencies that previously served the child and family shall be used, as appropriate, to meet the requirements of subparagraphs (2)(a)1. and 2. of this rule.

(4) Individual educational plan (IEP) or family support plan.

(a) For children ages birth through two (2), a family support plan in accordance with Rule 6A-6.03029, FAC.; shall be developed.

(b) For children ages three (3) through five (5), a family support plan in accordance with Rule 6A-6.03029, FAC., may be developed in lieu of an IEP.

(c) To the maximum extent appropriate, the educational assignment of prekindergarten children with disabilities shall be provided in the least restrictive environment which ensures interaction with children without disabilities or those with milder delays, or in natural environments. The opportunity for integration shall be specified in the IEP or family support plan.

(5) Instructional program.

(a) The family support plan or individual educational plan (IEP) shall be developed through interagency collaboration with the family and other providers of service to the child and family and in accordance with Rules 6A-6.03028 and 6A-6.03029, FAC., and shall include services to provide the parent, guardian, or primary caregiver the opportunity to acquire specific skills and knowledge which will enable them to enhance the child's cognitive, physical, social, communication, and adaptive behavior.

(b) In the provision of an appropriate educational program for eligible children with disabilities below age three (3), home instruction may include direct instruction of the parent, guardian, or primary caregiver.

(6) Funding. Prekindergarten children with disabilities who are being served in the home or hospital on a one-to-one basis in accordance with Rule 6A-6.0311(1)(g), FAC., shall be funded at the homebound and hospitalized program cost factor. When receiving instruction in a group setting, in accordance with Rule 6A-6.0311(1)(b)-(f), FAC., children with disabilities in this program shall be funded at the program cost factor for the applicable special program.

Specific Authority 229.053(1), 232.01(1)(e) FS. Law Implemented 232.01(1)(e), 236.081(1)(c) FS. History - New 5-18-86, Amended 7-13-93, 1-4-94.

**6A-6.03027 Special Programs for Children Three Through Five Years Old Who are Developmentally Delayed.**

(1) Definition. A child who is developmentally delayed is three (3) through five (5) years of age and is delayed in one (1) or more of the following areas:

(a) Adaptive or self-help development

(b) Cognitive development,

(c) Communication development,

(d) Social or emotional development,

(e) Physical development including fine, or gross, or

perceptual motor.

(2) Criteria for eligibility. A child is eligible for the special program for children who are developmentally delayed when the following criteria are met:

(a) The child is three (3) through five (5) years of age

(b) Documentation of one of the following:

1. A score of two (2) standard deviations (SD) below the mean or a twenty-five (25) percent delay on measures yielding scores in months in at least one (1) area of development; or

2. A score of 1.5 standard deviations (SD) below the mean or a twenty (20) percent delay on measures yielding scores in months in at least two (2) areas of development; or

3. Based on informed clinical opinion, the eligibility staffing committee makes a recommendation that a developmental delay exists and exceptional student education services are needed.

(c) The eligibility staffing committee in accordance with Rule 6A-6.0331(2)(b), FAC., has made a determination concerning the effects of the environment, cultural differences, or economic disadvantage.

(3) Procedures for referral. Before a child is referred for evaluation, the following activities shall occur:

(a) A review of existing social, psychological, and medical data with referral for a health screening when need is indicated; and

(b) A screening for vision, hearing, and communication functioning with referral for complete evaluations when need is indicated.

(4) Procedures for evaluation.

(a) Delay is documented by a multidisciplinary team in accordance with Rule 6A-6.0331(2)(c), FAC., utilizing multiple measures of assessment which include:

1. Standardized instruments, judgment based assessments, criterion referenced instruments, systematic observation, functional skills assessments, or other procedures selected in consultation with the parent(s); or

2. Informed clinical opinion utilizing qualitative and quantitative information to determine the need for early intervention services; and

3. Parent report which can confirm or modify information obtained and describe behavior in environments that the district may not be able to access.

(b) When a developmental delay cannot be verified by the use of standardized instruments, the delay(s) may be established through observation of atypical functioning in any one (1) or more of the developmental areas. A report shall be written documenting the evaluation procedures used, the results obtained, the reasons for overriding those results from standardized instruments, and the basis for recommending eligibility.

(5) Instructional program.

(a) The family support plan or individual educational plan (IEP) shall be developed through interagency collaboration with the family and other providers of services to the child and family and in accordance with Rules 6A-6.03026, 6A-6.03028, and 6A-6.03029, FAC.

(b) Because of the rapid development of young children, on-going observations and assessments shall be

conducted as needed to plan for family support plans or IEP modifications.

(6) Continued eligibility. Continued eligibility for special programs shall be determined before the child is six (6) years old.

Specific Authority 229.053(1)(2)(i), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. Law Implemented 228.041(18)(19), 232.01(1)(e), 229.053(2)(i), 230.23(4)(m), 236.081(1)(c) FS. History - New 7-13-93.

### **6A-6.03028 Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities.**

(1) Entitlement to FAPE. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to FAPE consistent with the requirements of the Individuals with Disabilities Education Act, 20 USC Section 1400, et. seq (IDEA), its implementing federal regulations at 34 CFR Subtitle B, part 300 et.seq. which is hereby incorporated by reference to become effective with the effective date of this rule, and under Rules 6A-6.03011 through 6A-6.0361, F.A.C. FAPE shall be made available to students with disabilities, including students who have been suspended or expelled, and any individual student with a disability who needs special education and related services, even though the student has not failed or been retained in a course or grade, and is advancing from grade to grade. The obligation to make FAPE available to all students with disabilities does not apply with respect to the following:

(a) Students with disabilities who have graduated from high school with a standard diploma. A standard diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate of completion or a general educational development credential (GED); and (b) Students aged eighteen (18) through twenty-one (21) who, in the last educational placement prior to their incarceration in an adult correctional facility:

1. Were not actually identified as being a child with a disability pursuant to Rules 6A-6.03011 through 6A-6.0361, F.A.C.; and

2. Did not have an individual educational plan (IEP) under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(c) The exception in paragraph (b) of this section does not apply to students with disabilities, aged eighteen (18) through twenty-one (21), who:

1. Had been identified as a student with a disability under Rules 6A-6.03011 through 6A-6.0361, F.A.C., and had received services in accordance with an IEP, but who left school prior to their incarceration; or

2. Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(2) Treatment of charter school students. Students with disabilities who attend public charter schools and their parents retain all rights under Rules 6A-6.03011 through 6A-6.0361, F.A.C. In carrying out Part B of the IDEA and Rules 6A-6.03011 through 6A-6.0361, F.A.C., with respect to charter schools that are public schools of the school district, the school district must serve students with disabilities

attending those charter schools in the same manner as the district serves students with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the school district has a policy or practice of providing such services on the site to its other public schools and provide funds under Part B of the IDEA to those charter schools on the same basis as the school district provides funds to the school district's other public schools, including proportional distribution based on relative enrollment of students with disabilities and at the same time as the school district distributes other Federal funds to its other public schools.

(3) IEP Requirements. An IEP or individual family support plan (IFSP) must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student.

(a) Role of parents. The role of parents in developing IEPs includes, but is not limited to:

1. Providing critical information regarding the strengths of their student;
2. Expressing their concerns for enhancing the education of their student so that their student can receive FAPE;
3. Participating in discussions about the student's need for special education and related services;
4. Participating in the determination of how the student will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;
5. Participating in the determination of what services the school district will provide to the student and in what setting; and
6. Participating in the determination of whether the student is pursuing a course of study leading towards a standard diploma, consistent with Sections 1003.43 and 1004.428, F.S., or a special diploma, consistent with Section 1003.438, F.S.

(b) Parent participation in meetings. Each school district shall establish procedures that provide the opportunity for one or both of the student's parents to participate in meetings and decisions concerning the IEP for the student. Parents of each student with a disability must be members of any group that makes decisions on the educational placement of their student. Procedures to ensure participation in meetings shall include the following:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
2. Scheduling the meeting at a mutually agreed on time and place.
3. A written notice of the meeting must be provided to the parents and must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their student and that they may request that a Part C service coordina-

tor or other representative of the Part C system be invited to attend the initial IEP Team meeting for a child previously receiving early intervention services under Part C of the IDEA.

4. No later than the first IEP to be in effect when the student turns fourteen (14), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be identifying transition services needs of the student and that the district will invite the student.

5. Not later than the first IEP to be in effect when the student turns sixteen (16), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be consideration of the postsecondary goals and transition services for the student, that the district will invite the student, and identify any other agency that will be invited to send a representative to the meeting.

6. If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing.

7. A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place, such as:

- a. Detailed records of telephone calls made or attempted and the results of those calls;
- b. Copies of correspondence sent to the parents and any responses received; and
- c. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

8. The district shall take whatever action is necessary to ensure that the parents and the student, beginning at age fourteen (14), understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

9. A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

10. The district shall give the parents a copy of the IEP at no cost to the parents.

(c) IEP Team participants. The IEP Team, with a reasonable number of participants, shall include:

1. The parents of the student
2. Not less than one (1) regular education teacher of the student, if the student is or may be participating in the regular education environment. The regular education teacher of a student with a disability, as a member of the IEP Team, must to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:
  - a. Appropriate positive behavioral interventions and supports and other strategies for the student; and

b. Supplementary aids and services, classroom accommodations, modifications or supports for school personnel that will be provided for the student consistent with this rule.

3. Not less than one (1) special education teacher of the student, or where appropriate, not less than one special education provider of the student;

4. A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, the student's special education teacher may be designated to also serve as the representative of the school district if the teacher meets the requirements described in this paragraph;

5. An individual who can interpret the instructional implications of evaluation results who may be a member of the IEP Team as described in subparagraph (3)(c)3., or (3)(c)4., of this rule;

6. At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise of any such individual shall be made by the party who invited the individual to be a member of the IEP Team; and

7. The student, if appropriate, and in all cases where a purpose of the meeting will be the identification of the student's transition services needs or consideration of postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP meeting to identify transition services needs or consider postsecondary goals and transition services, the school district shall take other steps to ensure that the student's preferences and interests are considered.

8. To the extent appropriate and with the consent of the parents or a student who has reached the age of majority, the school district shall invite a representative of any participating agency that may be responsible for providing or paying for transition services. Parental consent or the consent of the student who has reached the age of majority must also be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

9. In the case of a child who was previously served and received early intervention services under Part C of the IDEA, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

(d) IEP Team member excusal. A member of the IEP Team described in subparagraph (3)(c)2., or (3)(c)3., or (3)(c)4., or (3)(c)5. above is not required to attend an IEP Team meeting, in whole or in part, if the parent of a student with a disability and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services

is not being modified or discussed in the meeting. Any such member of the IEP Team may also be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the school district consent to the excusal and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(e) Transition of children with disabilities from the infants and toddlers early intervention program.

1. By the third (3rd) birthday of a child who has been participating in the early intervention program for infants and toddlers with disabilities, an IEP consistent with this rule or an individual family support plan consistent with these rules, must be developed and implemented.

2. For the purpose of implementing the requirement of this rule, each school district will participate in transition planning conferences arranged by the state lead agency for the infants and toddlers with disabilities early intervention program.

3. If the child's third (3rd) birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or individual family support plan will begin.

(f) IEP and meeting timelines. Timelines for IEPs for students with disabilities shall include the following:

1. An IEP, which has been reviewed, and if appropriate, revised periodically, but not less than annually, must be in effect at the beginning of each school year for each eligible student with a disability within its jurisdiction.

2. An IEP must be developed within thirty (30) calendar days following the determination of a student's eligibility for special education and related services and be in effect prior to the provision of these services.

3. Meetings shall be held to develop, review and revise the IEP. A meeting shall be held at least annually to review each IEP and, as appropriate, revise its provisions in accordance with all aspects of this rule.

(g) Considerations in IEP development, review, and revision for students with disabilities. The IEP team shall consider the following in IEP development, review, and revision:

1. The strengths of the student and the concerns of the parents for enhancing the education of their student;

2. The results of the initial or most recent evaluation or reevaluation of the student;

3. As appropriate, the results of the student's performance on any general statewide or districtwide assessment;

4. The academic, developmental, and functional needs of the student;

5. In the case of a student whose behavior impedes the student's learning or the learning of others, strategies, including the use of positive behavioral interventions, supports, and other strategies to address that behavior;

6. In the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

7. In the case of a student who is blind or visually

impaired, provision of instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the student's reading and writing skills, needs, including future needs, and appropriate reading and writing media (including an evaluation of the student's future need for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

8. The communication needs of the student

9. In the case of a student who is deaf or hard-of-hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

10. Whether the student requires assistive technology devices and services. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the IEP Team determines that the student needs access to those devices in order to receive a free appropriate public education; and

11. At least annually, whether extended school year services are necessary for the provision of a free appropriate public education to the student consistent with the following:

a. Extended school year services (ESY) must be provided if a student's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the student.

b. School districts may not limit ESY to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

12. If, after consideration of the factors in paragraph (3)(g), the IEP Team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education, the IEP must include a statement to that effect.

(h) Contents of the IEP. The IEP for each student with a disability must include:

1. A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general curriculum, or for prekindergarten children, as appropriate, how the disability affects the student's participation in appropriate activities;

2. A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities and meeting each of the student's other educational needs that result from the student's disability;

3. A description of benchmarks or short-term objectives for:

a. Students with disabilities who take alternate assessments aligned to alternate achievement standards; or

b. Any other student with a disability, at the discretion

of the IEP Team.

4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the classroom accommodations, modifications or supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students in the activities described in this section. A parent must provide signed consent for a student to receive instructional accommodations that would not be permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such accommodations. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described in subparagraph (3)(h)4., of this rule;

5. A statement of any individual appropriate accommodations in the administration of state or district assessments of student achievement that are necessary in order to measure the academic achievement and functional performance of the student on the assessments. Accommodations that negate the validity of a statewide assessment are not allowable in accordance with Section 1008.22(3)(c)6., F.S. If the IEP Team determines that the student will take an alternate assessment instead of the regular state or district assessment of student achievement or part of an assessment, the IEP must include a statement of why the student can not participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student. If a student does not participate in the regular state assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation in accordance with Section 1008.22(3)(c)6., F.S.

6. The projected date for the beginning of the special education, services, accommodations and modifications described in subparagraph (3)(h)4., of this rule and the anticipated frequency, location, and duration of those services;

7. A statement of how the student's progress toward meeting the annual goals will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

8. In accordance with Commissioner of Education Rule 6A-1.09961, F.A.C., during the student's eighth (8th) grade year or during the school year of the student's fourteenth (14th) birthday, whichever comes first, a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma.

9. In order to ensure quality transition planning and services, IEP Teams shall begin the process of identifying transition services needs of students with disabilities beginning no later than age fourteen (14), so that needed

postsecondary goals may be identified and in place by age sixteen (16). Beginning not later than the first IEP to be in effect when the student turns sixteen (16), or younger, if determined appropriate by the IEP Team and updated annually:

a. A statement of appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services (including courses of study) needed to assist the student in reaching those goals.

b. Consideration of instruction or the provision of information in the area of self-determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, if appropriate.

c. If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP. However, this does not relieve any participating agency, including Division of Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

10. Beginning at least one (1) year before the student's eighteenth (18th) birthday, a statement that the student has been informed of his or her rights under Part B of the IDEA, if any, that will transfer from the parent to the student on reaching the age of majority, which is eighteen (18) years of age.

(i) Least restrictive environment (LRE) and placement determinations. Placement determinations shall be made in accordance with the least restrictive environment provisions of the IDEA and Rules 6A-6.03011 through 6A-6.0361, F.A.C., as follows:

1. To the maximum extent appropriate, students with disabilities, including those in public or private institutions or other facilities, are educated with students who are not disabled;

2. Special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

3. A continuum of alternative placements must be available to meet the needs of students with disabilities for special education and related services, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions and a school district must make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

4. In determining the educational placement of a student with a disability, including a preschool child with a disability, each school district must ensure that:

a. The placement decision

(I) Is made by a group of persons, including the par-

ents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and

(II) Is made in conformity with the LRE provisions of this rule.

b. The student's placement

(I) Is determined at least annually;

(II) Is based on the student's IEP; and

(III) Is as close as possible to the student's home.

(c) Unless the IEP of a student with a disability requires some other arrangement, the student is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services that he or she needs; and

e. A student with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

5. In providing or arranging for the provision of nonacademic and extracurricular services and activities (including meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available), each school district must ensure that each student with a disability participates with students who are not disabled to the maximum extent appropriate to the needs of the student. The school district must ensure that each student with a disability has the supplementary aids and services determined by the student's IEP Team to be appropriate and necessary for the student to participate in nonacademic settings.

(j) Review and revision of the IEP. The school district shall ensure that the IEP Team:

1. Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved;

2. Revises the IEP as appropriate to address:

a. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;

b. The results of any reevaluation conducted;

c. Information about the student provided to, or by, the parents;

d. The student's anticipated needs or other matters; and

e. Consideration of the factors described in paragraph (3)(g) of this rule; and

3. Responds to the parent's right to ask for revision of the student's IEP; and

4. Encourages the consolidation of reevaluation meetings for the student and other IEP Team meetings for the student, to the extent possible.

(k) Changes to the IEP. Generally, changes to the IEP must be made by the entire IEP Team at an IEP Team meeting and may be made by amending the IEP rather than by redrafting the entire IEP. However, in making changes to a student's IEP after the annual IEP meeting for a school

year, the parent and the school district may agree not to convene an IEP Team meeting for purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP without a meeting, the school district must ensure that the student's IEP Team is informed of those changes. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

(l) Students with disabilities in adult prisons. The requirements of this rule relating to participation in general assessments do not apply to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons. In addition, the requirements relating to transition planning and services do not apply with respect to those students whose eligibility for services under Part B of the IDEA and Rules 6A-6.03011 through 6A-6.0361, F.A.C., will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release. The IEP Team of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, and the requirements relating to IEP content and LRE do not apply with respect to such modifications made.

(m) IEP implementation and accountability. The school district, or other state agency that provides special education either directly, by contract, or through other arrangements, is responsible for providing special education to students with disabilities in accordance with the students' IEPs. However, it is not required that the school district, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. An IEP must be in effect before special education and related services are provided to an eligible student and must be implemented as soon as possible following the IEP meeting. In addition:

1. The student's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

2. All teachers and providers shall be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

3. The school district must make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed on the IEP.

4. Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures.

(n) IEPs and meetings for students with disabilities placed in private schools or community facilities by the school district.

1. If a student with a disability is placed in a private school by the school district, in consultation with the student's parents, the school district shall:

a. Ensure that the student has all of the rights of a student with a disability who is served by a school district.

b. Before the school district places the student, initiate and conduct a meeting to develop an IEP for the student, in accordance with this rule or for children ages three (3) through five (5), an IEP or an IFSP in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC.; and

c. Ensure the attendance of a representative of the private school at the meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

2. After a student with a disability enters a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of the school district but the school district must ensure that the parents and a school district representative are involved in decisions about the IEP and agree to proposed changes in the IEP before those changes are implemented by the private school.

3. Even if a private school or facility implements a student's IEP, responsibility for compliance with these rules remains with the school district.

4. Subparagraphs (3)(n)1. through 3. of this rule apply only to students who are or have been placed in or referred to a private school or facility by a school district as a means of providing FAPE.

(o) If placement in a public or private residential program is necessary to provide special education to a student with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the student.

(p) Procedures for routine checking of hearing aids and external components of surgically implanted medical devices. Each school district must ensure that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly and must ensure that the external components of surgically implanted medical devices are functioning properly. For a student with a surgically implanted medical device who is receiving special education and related services under Rules 6A-6.03011 through 6A-6.0361, F.A.C., a school district is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

(q) Procedures for students with disabilities who are covered by public benefits or insurance. A school district may use the Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for services required under Rules 6A-6.03011 through 6A-6.0361, F.A.C., as permitted under the public benefits or insurance program, except as provided herein.

1. With regard to services required to provide FAPE to an eligible student under the IDEA, the school district:

a. May not require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;

b. May not require parents to incur an out-of-pocket

expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to the IDEA, but pursuant to subparagraph (3)(q)3. of this rule, may pay the cost that the parent otherwise would be required to pay;

c. May not use a student's benefits under a public insurance program if that use would:

(I) Decrease available lifetime coverage or any other insured benefit;

(II) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;

(III) Increase premiums or lead to the discontinuation of benefits or insurance; or

(IV) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

d. Must obtain informed written parental consent each time that access to public benefits or insurance is initially sought and notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents. Parental consent must be obtained each time services are changed.

2. With regard to students with disabilities who are covered by private insurance, a school district may access a parent's private insurance proceeds to provide services required under the IDEA only if the parent provides written informed consent. Each time the school district proposes to access the parent's private insurance proceeds, the agency must obtain parental consent and inform the parents that their refusal to permit the school district to access their private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

3. Use of Part B funds if parent does not give consent. If a school district is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required to ensure FAPE, the school district may use its IDEA Part B funds to pay for the service. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the school district may use its IDEA Part B funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).

(r) Access to Instructional Materials. Each school district must take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

(s) Physical education. Physical education services, specially designed if necessary, must be made available to every student with a disability receiving FAPE, unless the school district enrolls students without disabilities and does not provide physical education to students without disabilities in the same grades. Each student with a disability must

be afforded the opportunity to participate in the regular physical education program available to nondisabled students unless the student is enrolled full time in a separate facility or the student needs specially designed physical education, as prescribed in the student's IEP. If specially designed physical education is prescribed in a student's IEP, the school district responsible for the education of that student must provide the services directly or make arrangements for those services to be provided through other public or private programs. The school district responsible for the education of a student with a disability who is enrolled in a separate facility must ensure that the student receives appropriate physical education services in compliance with this section.

(t) Program options. Each school district must take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the school district, including art, music, industrial arts, consumer and homemaking education, and vocational education.

Specific Authority 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c), (e), 1001.03(8) FS. History—New 7-13-93, Amended 10-17-04, 12-22-08.

#### **6A-6.030281 Provision of Equitable Services to Parentally-Placed Private School Students with Disabilities.**

School districts must maintain policies and procedures in accordance with this rule to ensure the provision of equitable services to students with disabilities who have been placed in private schools by their parents where the provision of free appropriate public education (FAPE) is not at issue.

(1) Definition of parentally-placed private school students with disabilities. For purposes of this rule, parentally-placed private school students with disabilities means students with disabilities enrolled by their parents in private, including religious, non-profit schools or facilities that meet the definition of elementary school or secondary school under Rules 6A-6.03011 through 6A-6.0361, F.A.C., and does not include students with disabilities who are or have been placed in or referred to a private school or facility by a school district as a means of providing special education and related services.

(2) Child find for parentally-placed private school students with disabilities. Each school district must locate, identify, and evaluate all students with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, in accordance with this rule and the child find provisions of these rules. The child find process must be designed to ensure the equitable participation of parentally-placed private school students and an accurate count of those students.

(a) Activities. In carrying out the requirements of this section, the school district must undertake activities similar to the activities undertaken for the school district's public school students.

(b) Cost. The cost of carrying out the child find require-

ments in this rule, including individual evaluations, may not be considered in determining if a school district has met its obligation under subsection (4) of this rule.

(c) Completion period. The child find process must be completed in a time period comparable to that for other students attending public schools in the school district.

(d) Out-of-State students. Each school district in which private, including religious, elementary and secondary schools are located must, in carrying out the child find requirements in this rule, include parentally-placed private school students who reside in a State other than Florida.

(3) Confidentiality of personally identifiable information. If a student is enrolled, or is going to enroll in a private school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

(4) Provision of services for parentally-placed private school students with disabilities – basic requirement. To the extent consistent with the number and location of students with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, provision is made for the participation of those students in the program assisted or carried out under Part B of the Individuals with Disabilities Education Act (IDEA) by providing them with special education and related services, including direct services determined in accordance with subsections (12) and (13) of this rule, unless the U.S. Secretary of Education has arranged for services to those students under the by-pass provisions in 34 C.F.R. §§300.190 through 300.198.

(a) Services plan for parentally-placed private school students with disabilities. In accordance with subsections (12) and (13) of this rule, a services plan must be developed and implemented for each private school student with a disability who has been designated by the school district in which the private school is located to receive special education and related services under this rule.

(b) Record keeping. Each school district must maintain in its records, and provide to the Department of Education, the following information related to parentally-placed private school students covered under this rule:

1. The number of students evaluated
2. The number of students determined to be students with disabilities; and
3. The number of students served.

(5) Expenditures. To meet the requirements of this rule, each school district must spend the following on providing special education and related services (including direct services) to parentally-placed private school students with disabilities:

(a) For children and students aged three (3) through twenty-one (21), an amount that is the same proportion of the school district's total subgrant under Section 611(f) of the IDEA as the number of private school students with disabilities aged three (3) through twenty-one (21) who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school

district's jurisdiction, is to the total number of students with disabilities in its jurisdiction aged three (3) through twenty-one (21).

(b) For children aged three (3) through five (5), an amount that is the same proportion of the school district's total subgrant under Section 619(g) of the IDEA as the number of parentally-placed private school students with disabilities aged three (3) through five (5) who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, is to the total number of students with disabilities in its jurisdiction aged three (3) through five (5).

(c) Children aged three (3) through five (5) are considered to be parentally-placed private school students with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school under Florida law.

(d) If a school district has not expended for equitable services all of the funds described in paragraphs (5)(a) and (b) above by the end of the fiscal year for which Congress appropriated the funds, the school district must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school students with disabilities during a carry-over period of one additional year.

(6) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school students with disabilities, the school district, after timely and meaningful consultation with representatives of private schools, must conduct a thorough and complete child find process to determine the number of parentally-placed students with disabilities attending private schools located in the school district. (See Appendix B to the IDEA regulations for an example of how proportionate share is calculated).

(7) Annual count of the number of parentally-placed private school students with disabilities. Each school district must, after timely and meaningful consultation with representatives of parentally-placed private school students with disabilities (consistent with this rule), determine the number of parentally-placed private school students with disabilities attending private schools located in the school district and ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year. The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally-placed private school students with disabilities in the next fiscal year.

(8) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school students with disabilities under this rule.

(9) Consultation with private school representatives. To ensure timely and meaningful consultation, a school district must consult with private school representatives and representatives of parents of parentally-placed private school students with disabilities during the design and development of special education and related services for

the students regarding the following:

(a) The child find process, including how parentally-placed private school students suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;

(b) The determination of the proportionate share of Federal funds available to serve parentally-placed private school students with disabilities, including the determination of how the proportionate share of those funds was calculated;

(c) The consultation process among the school district, private school officials, and representatives of parents of parentally-placed private school students with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed students with disabilities identified through the child find process can meaningfully participate in special education and related services;

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school students with disabilities, including a discussion of:

1. The types of services, including direct services and alternate service delivery mechanisms; and

2. How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school students; and

3. How and when those decisions will be made.

(e) How, if the school district disagrees with the views of private school officials on the provision of services or the types of services (whether provided directly or through a contract) the school district will provide to such private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

(10) Written affirmation. When timely and meaningful consultation, as required by subsection (9) of this rule has occurred, the school district must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the Department of Education.

(11) Compliance. A private school official has the right to submit a complaint to the Department of Education that the school district did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. If the private school official wishes to submit a complaint, the official must provide to the Department of Education the basis of the non-compliance by the school district with the applicable private school provisions in this rule and the school district must forward the appropriate documentation to the Department of Education. If the private school official is dissatisfied with the decision of the Department of Education, the official may submit a complaint to the U.S. Secretary of Education by providing the information on noncompliance, and the Department of Education must forward the appropriate documentation to the U.S. Secretary of Education.

(12) Equitable services determined. No parentally-

placed private school student with a disability has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Decisions about the services that will be provided to parentally-placed private school students with disabilities under this rule must be made in accordance with this rule. The school district will make the final decisions with respect to the services to be provided to eligible parentally-placed private school students with disabilities.

(13) Services plan for each student served. If a student with a disability is enrolled in a religious or other private school by the student's parents and will receive special education or related services from a school district, the school district must initiate and conduct meetings to develop, review, and revise a services plan for the student and ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls. Each parentally-placed private school student with a disability who has been designated by the school district to receive services must have a services plan that describes the specific direct special education services that the school district will provide to the student in light of the services that the school district has determined it will make available to parentally-placed private school students with disabilities. The services plan must be developed, reviewed, and revised consistent with the requirements for IEP development, review and revision.

(14) Equitable services provided. The provision of equitable services must be by employees of the school district or through contract by the school district with an individual, association, agency, organization, or other entity. The services provided to parentally-placed private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary and secondary school teachers who are providing equitable services to parentally-placed private school students with disabilities do not have to meet the highly qualified special education teacher requirements under Florida law. Parentally-placed private school students with disabilities may receive a different amount of services than students with disabilities in public schools. Special education and related services provided to parentally-placed private school students with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

(15) Location of services and transportation. Equitable services to parentally-placed private school students with disabilities may be, but are not required to be, provided on the premises of private, including religious, schools. If necessary for the student to benefit from or participate in the services provided under this rule, a parentally-placed private school student with a disability must be provided transportation from the student's school or the student's home to a site other than the private school and from the service site to the private school, or to the student's home, depending on the timing of the services. School districts

are not required to provide transportation from the student's home to the private school. The cost of any transportation provided under this section may be included in calculating whether the school district has expended its proportionate share.

(16) Due process hearings and procedural safeguards. Except as provided herein, the procedures related to procedural safeguards, mediation and due process hearings do not apply to complaints that a school district has failed to meet the requirements of this rule, including the provision of services indicated on the student's services plan. However, such procedures do apply to complaints that a school district has failed to meet the requirements of this rule related to child find, including the requirements related to conducting appropriate evaluations of students with disabilities. Any request for due process hearing regarding the child find requirements must be filed with the school district in which the private school is located and a copy must be forwarded to the Department of Education.

(17) State complaints. Any complaint that a school district has failed to meet the requirements of this rule related to the provision of equitable services, services plans, expenditures, consultation with private school representatives, personnel, or equipment and supplies must be filed in accordance with the State Complaint procedures described in Rules 6A-6.03011 through 6A-6.0361, FAC. A complaint filed by a private school official under this section must be filed with the Department of Education in accordance with its State Complaint procedures as prescribed in subsection 6A-6.03311(5), FAC.

(18) Requirement that funds not benefit a private school. A school district may not use funds provided under the IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school. The school district must use funds provided under Part B of the IDEA to meet the special education and related services needs of parentally-placed private school students with disabilities, but not for the needs of a private school or the general needs of the students enrolled in the private school.

(19) Use of personnel. A school district may use funds available under the IDEA to make public school personnel available in other than public facilities to the extent necessary to provide equitable services under this rule for parentally-placed private school students with disabilities if those services are not normally provided by the private school. A school district may use funds available under the IDEA to pay for the services of an employee of a private school to provide equitable services under this rule if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control.

(20) Separate classes prohibited. A school district may not use funds available under the IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

(21) Property, equipment, and supplies. A school district must control and administer the funds used to provide

special education and related services under this rule and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in this rule. The school district may place equipment and supplies in a private school for the period of time needed for the provision of equitable services. The school district must ensure that the equipment and supplies placed in a private school are used only for IDEA purposes and can be removed from the private school without remodeling the private school facility. The school district must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for IDEA purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than IDEA purposes. No funds under IDEA may be used for repairs, minor remodeling, or construction of private school facilities.

Specific Authority 1001.02(1)(2), (n), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c), (e), 1001.03(8) FS. History—New 9-20-04, Amended 12-22-08.

#### **6A-6.03029 Development of Family Support Plans for Children with Disabilities Ages Birth Through Five Years.**

Parents are a child's first teachers and must be partners with school and school district personnel to identify their specific concerns and priorities of the family related to enhancing their child's development. Procedures for developing family support plans shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students document consistent with the following requirements:

(1) Definitions. An individualized family support plan is a written plan identifying the specific concerns and priorities of a family related to enhancing their child's development and the resources to provide early intervention services. A planning process involving the family, professionals, and others shall be used to prepare the document.

(2) Use of family support plans. For children with disabilities ages birth through two (2) years, a family support plan consistent with the requirements of Subsections (3), (4), (6), (8), and (9) of this rule shall be used. For children with disabilities ages three (3) through five (5) years, school districts may utilize, at the option of the school district and with written parental consent, a family support plan, consistent with the requirements of Subsections (3), (5), (7), and (9) of this rule, in lieu of an individual educational plan (IEP). Parents must be provided with a detailed explanation of the difference between a family support plan and an IEP.

(3) Contents. The family support plan shall be in writing and include:

(a) A statement of the child's present levels of physical development, (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on objective criteria;

(b) With the concurrence of the family, statement of the family's resources, priorities, and concerns related to enhancing the development of the family's child with dis-

abilities.

(c) A statement of the major outcomes expected to be achieved by the child and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

(d) A statement of the specific early intervention services, or for children ages three (3) through five (5) years, the specially designed instruction and related services, necessary to meet the unique needs of the child and the family including the frequency, intensity, and the method of delivering services;

(e) A statement of the natural environments in which early intervention services, or for children ages three (3) through five (5) years, specially designed instruction and related services are to be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;

(f) The projected dates for initiation of services and the anticipated duration of such services; and

(g) The name of the service coordinator from the profession most immediately relevant to the child's or family's needs or the individual who is otherwise qualified to be responsible for the implementation of the plan and coordination with other agencies and persons. In meeting this requirement, the district may assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation to be responsible for implementing a child's and family's support plan or appoint a new service coordinator.

(h) Family support plans developed for children with disabilities ages birth through two (2) years shall also include:

1. The frequency, intensity, and method of delivery of the early intervention service;
2. The location of the early intervention service
3. The payment arrangements, if any
4. Other services to the extent appropriate;
5. The steps to be taken to support the transition of the child, upon reaching age three (3), to preschool services for children with disabilities ages three (3) through five (5), to the extent that those services are considered appropriate or other services that may be available, if appropriate. The steps required for transition shall include:

- a. Discussions with an assistance to parent(s) regarding future placements and other matters related to the child's transition;

- b. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and

- c. With parental consent, the sharing of information about the child to the school district to ensure continuity of services, including evaluation and assessment information and copies of family support plans that have been developed and implemented.

(4) Timelines for family support plans for children with disabilities ages birth through two (2) years. These timelines shall include the following:

- (a) For a child who has been evaluated for the first

time and determined to be eligible, a meeting to develop the initial family support plan must be conducted within forty-five (45) days from referral;

(b) A review of the family support plan for a child and the child's family must be conducted every six (6) months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

1. The degree to which progress toward achieving the outcomes is being made; and

2. Whether modifications or revision of the outcomes or services is necessary.

3. The review may be carried out at a meeting or by another means that is acceptable to the parents and other participants.

(c) A meeting must be conducted on at least an annual basis to evaluate the family support plan for a child and the child's family, and as appropriate, to revise its provisions. The results of any current evaluations, and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

(d) Family support plan meetings must be conducted:

1. In settings and at times that are convenient to families; and
2. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(e) Meeting arrangements must be made with and written notice provided to the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(f) The contents of the family support plan must be fully explained to the parent(s) and informed written consent from the parent(s) must be obtained prior to the provisions of early intervention services described in the plan. If the parent(s) does not provide consent with respect to a particular early intervention service, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

(5) Requirements for family support plans for children with disabilities ages three (3) through five (5). These family support plans shall be consistent with the requirements of Rule 6A-6.03028(3)-(6),(10), and (11), FAC.

(6) Participants for family support plans for children with disabilities ages birth through two (2) years. The participants shall include the following:

(a) Each initial meeting and each annual meeting to evaluate the family support plan must include the following participants:

1. The parent or parents of the child
2. Other family members, as requested by the parent(s) if feasible to do so;

3. An advocate or person outside of the family, if the parent(s) requests that the person participate;

4. The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated to be responsible for implementation of the family support plan;

5. For initial family support plan meetings, at least two

professionals from two different disciplines directly involved in conducting the evaluations and assessments. For subsequent family support plan meetings, at least two professionals from two different disciplines; and

6. As appropriate, persons who will be providing services to the child or family.

(b) If a person listed in paragraph (6)(a) of this rule is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including:

1. Participating in a telephone conference call;
2. Having a knowledgeable authorized representative attend the meeting; or
3. Making pertinent records available at the meeting.

(c) Each periodic review must provide for the participation of persons in subparagraphs (6)(a)1.-4. of this rule. If conditions warrant, provisions must be made for the participation of other representatives.

(7) Participants for family support plan meetings for children with disabilities ages three (3) through five (5) years shall include those listed in Rule 6A-6.03028(4), FAC.

(8) Provision of services before evaluation and assessments are completed. Early intervention services for a child with disabilities ages birth through two (2) years and the child's family may commence before the completion of the evaluation and assessments if the following conditions are met:

- (a) Parental consent is obtained;
- (b) An interim family support plan is developed that includes:
  1. The name of the service coordinator who will be responsible, consistent with paragraph (3)(g) of this rule, for implementation of the interim family support plan and coordination with other agencies and persons; and
  2. The early intervention services that have been determined to be needed immediately by the child and the child's family; and
- (c) The evaluation and assessments are completed within the time period required in paragraph (4)(a) of this rule.

(9) Nonpublic schools. For children with disabilities ages birth through five (5), the procedures described in Rule 6A-6.03028 (12), FAC., shall be followed.

(10) Financial responsibility. For children ages birth through two (2) years, the school district shall only be responsible for the early intervention services specified and agreed to through the family support plan process. For children ages three (3) through five (5) years, the school district shall only be responsible for the provision of the special education and related services necessary for the child to benefit from special education.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5) FS. Law Implemented 1001.42(4), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5), 1011.62(1)(c), 1001.03(8), FS. History - New 7-13-93, Amended 1-4-94, 9-20-04, c.f. P.L. 105-17 (20 USC 1436)

### **6A-6.03030 Special Programs For Children Birth Through Two Years Old Who Have Established Conditions.**

(1) Definition. A child with an established condition is

defined as a child from birth through two (2) years of age with a diagnosed physical or mental condition known to have a high probability of resulting in developmental delay or disability. Such conditions shall include genetic disorders, metabolic disorders, neurological abnormalities and insults, or severe attachment disorder.

(2) Criteria for eligibility. A child is eligible for the special program for children who have established conditions when the following criteria are met:

(a) The child is below the age of thirty-six (36) months; and

(b) A licensed physician(s), qualified to assess the child's physical or mental condition, makes a diagnosis or suspected diagnosis of a condition that has a high probability of resulting in developmental delay or disability.

(3) Procedures for evaluation. Before eligibility determination, the following activities shall be completed:

- (a) A review of existing medical, psychological, and social information and other related data;
- (b) A screening for vision and hearing;
- (c) A report of a medical examination within the previous six month period, from a licensed physician(s) qualified to assess the child's physical or mental condition. Such a report shall include a written statement of the child's diagnosis or suspected diagnosis.

(d) A developmental assessment conducted by the multidisciplinary team that includes the parent to determine the unique needs of the child. Such an assessment shall include the parent's report of the child's development and behavior and will assist in determining the early intervention services needed.

(e) When determined necessary by the multidisciplinary evaluation team, and in consultation with the parent, the evaluation may also include, but not be limited to, an audiological evaluation, psychological evaluation, speech and language evaluation, physical therapy evaluation, additional medical evaluations, social work evaluation, and/or an occupational therapy evaluation.

(f) For a child with a severe attachment disorder, a psychological evaluation completed by a licensed psychologist or certified school psychologist must be included in the evaluation.

(4) Development of the Family Support Plan.

(a) The family support plan shall be developed in collaboration with the family and other providers of service to the child and family and in accordance with Rules 6A-6.03026, 6A-6.03029, and 6A-6.0331, FAC.

(b) Because of the rapid development of young children and the changing needs of families, ongoing observations and/or assessments shall be conducted at least every six (6) months for the purpose of completing the periodic review of the family support plan.

(5) Continued eligibility. Continued eligibility for exceptional student education programs shall be determined before the child's third birthday.

(6) For the purpose of reporting FTE, this rule becomes effective October 1, 1993.

Specific Authority 229.053(1)(2)(i), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c), FS. Law Implemented 228.041(18)(19), 229.053(2)(l), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. History - New 11-29-93.

**6A-6.03031 Special Programs For Children Birth Through Two Years Old Who Are Developmentally Delayed.**

(1) Definition. A child who is developmentally delayed is defined as a child from birth through two years of age who has a delay in one (1) or more of the following areas:

- (a) Adaptive or self help development
- (b) Cognitive development;
- (c) Communication development;
- (d) Social/emotional development;
- (e) Physical/motor development.

(2) Criteria for eligibility. A child is eligible for the special program for children who are developmentally delayed when the following criteria are met:

- (a) The child is below the age of 36 months; a
- (b) There is documentation of one of the followin

1. A score of 1.5 standard deviations below the mean in at least one (1) area of development. For children below the age of twenty-four (24) months, the delay shall be defined in accordance with the child's corrected age; or

2. A twenty-five (25) percent delay on measures yielding scores in months in at least one area of development. For children below the age of twenty-four (24) months, the delay shall be defined in accordance with the child's corrected age; or

3. Based on informed clinical opinion and the observation of atypical functioning, the multidisciplinary team makes a recommendation that a developmental delay exists and exceptional student educational services are needed.

(c) The multidisciplinary team, in accordance with Rule 6A-6.0331(2)(b), FAC., has considered the effects of the environment, cultural differences, or economic disadvantage in determining that a developmental delay exists.

(3) Procedures for evaluation. Before eligibility determination the following activities shall be completed:

(a) A review of existing medical, psychological and social information and other related data;

(b) A screening for vision and hearing;

(c) Documentation of a delay by a multidisciplinary team in accordance with Rule 6A-6.0331(2)(c), FAC., utilizing at least one (1) measure of assessment which includes, standardized instruments, judgment based assessments, criterion referenced instruments, functional skills assessments, or other procedures selected in consultation with the parent(s);

(d) A parent report of the child's development and behavior to assist in determining the early intervention services needed;

(e) When determined necessary by the multidisciplinary evaluation team, and in consultation with the parent, procedures for evaluation may also include, but not be limited to, a speech and language evaluation, physical therapy evaluation, additional medical evaluations, psychological evaluation, audiological evaluation, social work evaluation and/or occupational therapy evaluation; and

(f) When a developmental delay cannot be verified by use of a standardized instrument, the delay(s) may be established through informed clinical opinion and the observation of atypical functioning in one(1) or more of the

developmental areas. A report shall be written documenting the evaluation procedures used, the results obtained, and the basis for recommending eligibility.

(4) Development of the Family Support Plan.

(a) The family support plan shall be developed in collaboration with the family and other providers of service to the child and family and in accordance with Rules 6A-6.030326, 6A-6.03029, and 6A-6.0331, FAC.

(b) Because of the rapid development of young children and the changing needs of families, ongoing observations and/or assessments shall be conducted at least every six months for the purpose of completing the periodic review of the family support plan.

(5) Continued eligibility. Continued eligibility for exceptional student education programs shall be determined before the child's third birthday.

(6) For the purpose of reporting FTE, this rule becomes effective October 1, 1993.

Specific Authority 229.053(1)(2)(i), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. Law Implemented 228.041(18)(19), 229.053(2)(i), 230.23(4)(m), 232.01(1)(e), 236.081(1)(c) FS. History - New 11-29-93.

**6A-6.03032 Procedural Safeguards for Children with Disabilities Ages Birth through Two Years.**

Providing parents with information regarding their rights under this rule is critical to ensuring that their specific concerns and the priorities of the family related to enhancing their child's development are addressed. The establishment and maintenance of policies and procedures to ensure that children with disabilities, ages birth through two years, and their parents are provided with procedural safeguards is required in order for school boards to receive state funds for the provision of these services. The school board's policy and procedures for procedural safeguards shall be set forth in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students document and shall include adequate provisions for the following:

(1) Prior notice. Parents shall be provided prior written notice a reasonable time before a school district proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.

(2) Content of notice. The content of the notice must be in sufficient detail to inform the parents about:

(a) The full explanation of all the procedural safeguards available to the parents as provided in this rule and Section 1003.57(5), Florida Statutes.

(b) The description of the action proposed or refused by the district and the reasons for taking the action.

(c) The state complaint procedures, including how to file a complaint with the Department of Health, Children's Medical Services, the lead agency for this program, and the timelines under those procedures.

(3) Native language.

(a) The notice described in subsection (2) of this rule must be:

1. Written in language understandable to the general

public.

2. Provided in the native language of the parents, unless it is clearly not feasible to do so.

(b) If the native language or other mode of communication of the parents is not a written language, the school district shall take steps to ensure that:

1. The notice is translated orally or by other means to the parents in the parents' native language or other mode of communication;

2. The parents understand the notice, an

3. There is written evidence that the requirements of subsection (3) of this rule have been met.

(c) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent, (such as sign language, Braille, or oral communication).

(4) Parent consent.

(a) Written parental consent must be obtained before:

1. Conducting the initial evaluation and assessment of a child; and

2. Initiating the provision of early intervention services.

(b) If consent is not given, the school district shall make reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and

2. Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

(5) Examination of records. The procedures described in paragraphs (4)(a)-(c) of Rule 6A-6.03311, FAC., shall be followed.

(6) Mediation. Parents shall be provided the opportunity to resolve disputes involving their child through mediation in accordance with procedures established by the Department of Health, Children's Medical Services, the lead agency for this program.

(7) Due process hearings. The procedures described in subsection (11) of Rule 6A-6.03311, FAC., shall be followed with the exception that the school district may not initiate a hearing to challenge the parents' decision regarding the placement or the provision of early intervention services for their child.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a)(b), 1003.57(5), 1003.21(1)(e), 1001.03(8), 1011.62(1)(c) FS. History - New 1-4-94, Amended 9-20-04.

c.f. P.L. 105-17, 20 USC 1439

### **6A-6.0311 Eligible Special Programs for Exceptional Students.**

Special programs for exceptional students encompass instruction and related services which provide significant adaptations in one or more of the following: curriculum, methodology, materials, equipment, or environment designed to meet the individual learning needs of exceptional students.

(1) Continuum of placements. Special programs shall be organized so that an exceptional student shall receive instruction in one or more of the following ways:

(a) Supplementary consultation or related services.

Supplementary consultation or related services is the provision of assistance to school staff in basic, vocational or exceptional classes.

(b) Resource room. Resource room special instruction is supplemental instruction to exceptional students who receive their major educational program in other basic, vocational or exceptional classes.

(c) Special class. Special class is the provision of instruction to exceptional students who receive the major portion of their educational program in special classes located in a regular school.

(d) Special day school. A special day school is a school which is administratively separate from regular schools and is organized to serve one or more types of exceptional students.

(e) Residential school. A residential school is a special school which in addition to providing special education and related services, provides room and board.

(f) Special class in a hospital or facility operated by a noneducational agency.

(g) Individual instruction in a hospital or home.

(h) In addition, districts may provide supplementary instructional personnel to public or nonpublic preschool or day care programs for the instruction of pre-kindergarten exceptional students.

(2) Varying exceptionalities. A varying exceptionalities class is a setting which may provide for assignment of students of more than one (1) exceptionality to one (1) teacher per instructional class period, or more than one (1) exceptionality to one (1) teacher during a school week.

(a) If a school district establishes varying exceptionalities classes, procedures for this program shall be set forth in Special Programs and Procedures for Exceptional Students as required by Rule 6A-6.03411, FAC.

(b) Eligible exceptional students served in varying exceptionalities classes shall be reported for full-time equivalent membership in accordance with Rule 6A-1.0451(7)(8), FAC.

(3) Written agreements for out-of-district placements.

(a) When multi-district programs are established, school districts shall develop a written agreement approved by all participating school boards, which includes but is not limited to:

1. Designating responsibilities for the implementation of Special Programs and Procedures for Exceptional Students, pursuant to Rule 6A-6.03411, FAC.;

2. Providing transportation;

3. Providing program and staff supervision;

4. Funding programs; and

5. Dissolving the agreement.

(b) When a district provides a special program for exceptional students by assigning instructional personnel to a facility operated by another agency or organization, a written agreement shall be developed outlining the respective duties and responsibilities of each party. The written agreement shall include information requirements as in paragraph (3)(a) of this rule.

(c) Prior to reporting full-time equivalent membership for students in a program as in paragraphs (3)(a) and (b) of this rule, the school districts shall have in effect a written

agreement which has been identified pursuant to Rule 6A-6.03411(4)(a), FAC.

Specific Authority 229.053(1), 230.23(4)(j)(m) FS. Law Implemented 230.23(4)(j)(m) FS. History - New 6-17-74, Repromulgated 12-5-74, Amended 7-25-83, Formerly 6A-6.311, Amended 10-3-91, 3-6-96.

### **6A-6.0312 Course Modifications for Exceptional Students.**

School boards shall modify basic courses, as necessary, to assure exceptional students the opportunity to meet the graduation requirements for a standard diploma. School boards shall modify vocational courses and programs of study, as necessary, to assure handicapped students the opportunity to meet graduation requirements for a standard or a special diploma.

(1) Modifications to basic courses shall not include modifications to the curriculum frameworks or student performance standards. When modifying vocational courses, the particular outcomes and student performance standards which a student must master to earn credit must be specified on the student's individual educational plan.

(2) Modifications to basic or vocational courses may include any of the following:

(a) The instructional time may be increased or decreased.

(b) Instructional methodology may be varied.

(c) Special communications systems may be used by the teacher or the student.

(d) Classroom and district test administration procedures and other evaluation procedures may be modified as specified in Rule 6A-1.0943, FAC., to accommodate the student's handicap.

(3) When modifying basic courses, the school board shall use one of the following strategies:

(a) Assignment of the exceptional student to an exceptional education class for instruction in a basic course with the same student performance standards as those required of nonexceptional students in the district pupil progression plan, or

(b) Assignment of the exceptional student to a basic education class for instruction which is modified to accommodate the student's exceptionality.

(4) The district shall determine which of these strategies to employ based on an assessment of the student's needs and shall reflect this decision in the student's individual educational plan.

(5) Exceptional students enrolled in basic courses utilizing the strategy described in Rule 6A-6.0312(3)(a), FAC., shall be counted at exceptional student special program cost factors only if the class is being taught in a special program for exceptional students, by a qualified teacher in accordance with Rule 6A-1.0503, FAC.

(6) The school board's provisions for course modifications shall be incorporated in the district's pupil progression plan.

Specific Authority 229.053(1), 230.23(4)(m), 236.081(1)(c) FS. Law Implemented 232.246(5), 232.247 FS. History - New 4-30-85, Formerly 6A-6.312, Amended 4-23-87.

### **6A-6.0331 General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education.**

The state's goal is to provide full educational opportunity and a free appropriate public education (FAPE) to all students with disabilities ages three (3) through twenty-one (21) and to school age students who are gifted. School districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. They must ensure that all students with disabilities or who are gifted and who are in need of specially designed instruction and related services are identified, located, and evaluated, and appropriate exceptional student education is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C. These requirements apply to all students, including those who are homeless or are wards of the state or who attend private schools, regardless of the severity of their disability. Additionally, school districts may elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Steps Program. The procedures and criteria for general education interventions, identification, evaluation, and determination of eligibility of students with disabilities and gifted students by school districts shall be set forth in the school district's Exceptional Student Education (ESE) Policies and Procedures document consistent with the following requirements.

(1) General education intervention procedures for kindergarten through grade twelve (12) students suspected of having a disability. It is the local school district's responsibility to develop and implement coordinated general education intervention procedures for students who need additional academic and behavioral support to succeed in the general education environment. In implementing such procedures, a school district may carry out activities that include the provision of educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction and professional development for teachers and other school staff to enable them to deliver scientifically based academic and behavioral interventions and, where appropriate, instruction on the use of adaptive and instructional software. The general education intervention requirements set forth in paragraphs (a) through (e) of this paragraph are not required of students suspected of being gifted or who are being considered for eligibility for specially designed instruction for students who are homebound or hospitalized. The general education interventions requirements set forth in paragraphs (a), (b), and (e) of this subsection may not be required for students suspected of having a disability if a team that comprises qualified professionals and the parent determines that these general education interventions are not appropriate for a student who demonstrates a speech disorder or severe cognitive, physical or sensory disorders, or severe social/behavioral deficits that require immediate intervention to prevent harm to the student or others, or for students who are not enrolled in a public school.

(a) Parent involvement in general education intervention procedures. Opportunities for parents to be involved in

the process to address the student's areas of concern must be made available. In addition, there must be discussion with the parent of the student's responses to interventions, supporting data and potential adjustments to the interventions and of anticipated future action to address the student's learning and/or behavioral areas of concern. Documentation of parental involvement and communication must be maintained.

(b) Observations of the student must be conducted in the educational environment and, as appropriate, other settings to document the student's learning or behavioral areas of concern. At least one (1) observation must include an observation of the student's performance in the general classroom.

(c) Review of existing data, including anecdotal, social, psychological, medical, and achievement (including classroom, district and state assessments) shall be conducted. Attendance data shall be reviewed and used as one indicator of a student's access to instruction.

(d) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits that may interfere with the student's academic and behavioral progress, and additional screenings or assessments to assist in determining interventions may be conducted, as appropriate. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(e) Evidence-based interventions addressing the identified areas of concern must be implemented in the general education environment. The interventions selected for implementation should be developed through a process that uses student performance data to, among other things, identify and analyze the area of concern, select and implement interventions, and monitor the effectiveness of the interventions. Interventions shall be implemented as designed for a reasonable period of time and with a level of intensity that matches the student's needs. Pre-intervention and ongoing progress monitoring measures of academic and/or behavioral areas of concern must be collected and communicated to the parents in an understandable format.

(f) Nothing in this section should be construed to either limit or create a right to FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C., or to delay appropriate evaluation of a student suspected of having a disability.

(g) A school district may not use more than fifteen (15) percent of the amount it receives under Part B of the IDEA for any fiscal year to develop and implement coordinated general education intervention procedures for students in kindergarten through grade twelve (12) who are not currently identified as needing special education or related services but who need additional support to succeed in the general education environment. Funds made available to carry out this section may be used to carry out general education intervention procedures aligned with activities funded by and carried out under the Elementary and Secondary Education Act (ESEA), if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section. For IDEA Part B funds used in this way, the

school district must annually report to the Florida Department of Education on the number of students served under this section who received general education interventions and the number of students who received such services and subsequently receive special education and related services under Part B of the IDEA during the preceding two (2) year period.

(2) Procedures prior to initial evaluation for prekindergarten children. For children who are below mandatory school attendance age and who are not yet enrolled in kindergarten, the activities specified in subsection (1) of this rule are not required. The following requirements apply to this population:

(a) A review of existing social, psychological, and medical data with referral for a health screening when the need is indicated; and

(b) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits. Additional screenings to assist in determining interventions may be conducted as appropriate.

(3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a student or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability or is gifted.

(a) Prior to a school district request for initial evaluation, school personnel must make one (1) of the following determinations and include appropriate documentation in the student's educational record to the effect that:

1. For a student suspected of being a student with a disability, the general education intervention procedures have been implemented as required under this rule and indicate that the student should be considered for eligibility for ESE; or

2. The nature or severity of the student's areas of concern make the general education intervention procedures inappropriate in addressing the immediate needs of the student.

(b) If the parent of the child receiving general education interventions requests, prior to the completion of these interventions, that the school conduct an evaluation to determine the student's eligibility for specially designed instruction and related services as a student with a disability, the school district:

1. Must obtain consent for and conduct the evaluation; and

2. Complete the activities described in subsection (1) of this rule concurrently with the evaluation but prior to the determination of the student's eligibility for specially designed instruction; or

3. Must provide the parent with written notice of its refusal to conduct the evaluation that meets the requirements of Rule 6A-6.03311, F.A.C.

(c) The school district shall be responsible for conducting all initial evaluations necessary to determine if the student is eligible for ESE and to determine the educational needs of the student. Such evaluations must be conducted by examiners, including physicians, school psychologists, psychologists, speech-language pathologists, teachers, audiologists, and social workers who are qualified in the

professional's field as evidenced by a valid license or certificate to practice such a profession in Florida. Educational evaluators not otherwise covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, F.A.C.

1. Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, FAC., or licensed under Chapter 490, F.S.

2. Standardized assessment of adaptive behavior shall include parental input regarding their student's adaptive behavior.

(d) The school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) that the student is in attendance after the school district's receipt of parental consent for the evaluation. For prekindergarten children, initial evaluations must be completed within sixty (60) school days after the school district's receipt of parental consent for evaluation.

(e) The sixty (60)-day timeframe for evaluation does not apply to a school district if:

1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation; or

2. A student enrolls in a school served by the school district after the timeframe has begun, and prior to a determination by the student's previous school district as to whether the student is a student with a disability. This exception applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed. Assessments of students with disabilities who transfer from one school district to another school district in the same school year must be coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(f) The school district shall ensure that students suspected of being gifted are evaluated within a reasonable period of time.

(4) Parental consent for initial evaluation.

(a) The school district must provide notice to the parent that describes any evaluation procedures the school district proposes to conduct. In addition, the school district proposing to conduct an initial evaluation to determine if a student is a student with a disability or is gifted must obtain informed consent from the parent of the student before conducting the evaluation.

(b) Parental consent for initial evaluation must not be construed as consent for initial provision of ESE.

(c) The school district must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability or is gifted.

(d) For initial evaluations only, if the child is a ward of the State and is not residing with the student's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine

whether the student is a student with a disability if:

1. Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the student;

2. The rights of the parents of the student have been terminated in accordance with Chapter 39, Part XI, F.S.; or

3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for initial evaluation has been given by an individual appointed by the judge to represent the student.

(e) If the parent of a student suspected of having a disability who is enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the school district may, but is not required to, pursue initial evaluation of the student by using the mediation or due process procedures contained in Rules 6A-6.03011 through 6A-6.0361, F.A.C. The school district does not violate its child find or evaluation obligations if it declines to pursue the evaluation.

(f) A school district may not use a parent's refusal to consent to initial evaluation to deny the parent or the student any other service, benefit, or activity of the school district, except as provided by this rule.

(5) Evaluation procedures.

(a) In conducting an evaluation, the school district:

1. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining whether the student is eligible for ESE and the content of the student's IEP or EP, including information related to enabling the student with a disability to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), or for a gifted student's needs beyond the general curriculum;

2. Must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE and for determining an appropriate educational program for the student; and

3. Must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(b) Each school district must ensure that assessments and other evaluation materials used to assess a student are:

1. Selected and administered so as not to be discriminatory on a racial or cultural basis;

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

3. Are used for the purposes for which the assessments or measures are valid and reliable; and

4. Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials shall

include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments shall be selected and administered so as to best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's sensory, manual, or speaking skills, unless those are the factors the test purports to measure.

(e) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(f) A student shall be assessed in all areas related to a suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(g) An evaluation shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the disability category in which the student is classified.

(6) Determination of eligibility for exceptional students.

(a) A group of qualified professionals determines whether the student is an exceptional student in accordance with this rule and the educational needs of the student. The parents of a student being considered for eligibility as a student with a disability shall be invited and encouraged to participate as equal members of the group. The school district must provide a copy of the evaluation report and the documentation of the determination of eligibility at no cost to the parent. If a determination is made that a student is an exceptional student and needs ESE, an IEP or EP must be developed for the student in accordance with these rules.

(b) In interpreting evaluation data for the purpose of determining if a student is an exceptional student and the educational needs of the student, each school district shall:

1. Draw upon data and information from a variety of sources, such as aptitude and achievement tests, the student's response to interventions/instruction implemented, parent input, student input as appropriate, teacher recommendations, and information about the student's physical condition, social or cultural background, and adaptive behavior;

2. Ensure that information obtained from all of these sources is documented and carefully considered; and

3. Determine eligibility in accordance with the criteria and procedures specified in these rules.

(c) If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed for the student in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C. For children ages three (3) through five (5) years, an individual family support plan (IFSP) may be developed in lieu of an IEP.

(d) A student may not be determined eligible as a student with a disability if the determinant factor is:

1. Lack of appropriate instruction in reading, including the essential components of reading instruction, including explicit and systematic instruction in (a) phonemic awareness; (b) phonics; (c) vocabulary development; (d) reading fluency, including oral reading skills; and (e) reading comprehension strategies;

2. Lack of appropriate instruction in math; or

3. Limited English proficiency; and

4. The student does not otherwise meet the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(e) A student may not be denied eligibility as a student who is gifted if the determinant factor is limited English proficiency.

(f) For students identified as gifted, an educational plan (EP) in accordance with Rule 6A-6.030191, F.A.C., shall be developed.

(7) Reevaluation Requirements.

(a) A school district must ensure that a reevaluation of each student with a disability is conducted in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., if the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation or if the student's parent or teacher requests a reevaluation.

(b) A reevaluation may occur not more than once a year, unless the parent and the school district agree otherwise and must occur at least once every three (3) years, unless the parent and the school district agree that a reevaluation is unnecessary.

(c) Each school district must obtain informed parental consent prior to conducting any reevaluation of a student with a disability.

(d) If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override provisions of mediation or due process. The school district does not violate its child find, evaluation or reevaluation obligations if it declines to pursue the evaluation or reevaluation.

(e) The informed parental consent for reevaluation need not be obtained if the school district can demonstrate that it made reasonable efforts to obtain such consent and the student's parent has failed to respond.

(8) Additional requirements for evaluations and reevaluations. As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must take the following actions:

(a) Review existing evaluation data on the student, including:

1. Evaluations and information provided by the student's parents;

2. Current classroom-based, local, or State assessments and classroom-based observations; and

3. Observations by teachers and related services providers.

(b) Identify, on the basis of that review and input from the student's parents, what additional data, if any, are needed to determine the following:

1. Whether the student is a student with a disability or, in case of a reevaluation of the student, whether the student continues to have a disability;
2. The educational needs of the student
3. The present levels of academic achievement and related developmental needs of the student;
4. Whether the student needs special education and related services or, in the case of a reevaluation of the student, whether the student continues to need special education and related services; and
5. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum.

(c) The group conducting this review may do so without a meeting.

(d) The school district shall administer tests and other evaluation measures as may be needed to produce the data that is to be reviewed under this section.

(e) If the determination under this section is that no additional data are needed to determine whether the student continues to be a student with a disability and to determine the student's educational needs, the school district shall notify the student's parents of:

1. That determination and the reasons for the determination; and
2. The right of the parents to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs. The school district is not required to conduct the assessment unless requested to do so by the student's parents.

(f) Reevaluation is not required for a student before the termination of eligibility due to graduation with a standard diploma or exiting from school upon reaching the student's twenty-second (22nd) birthday. For a student whose eligibility terminates under these circumstances, a school district must provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

(g) Parental consent is not required before reviewing existing data as part of an evaluation or reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(h) If a parent of a student who is home schooled or placed in private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district may not use the consent override provisions of mediation or due process and the school district is not required to consider the student eligible for services under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(i) To meet the reasonable efforts requirements to obtain parental consent in Rules 6A-6.03011 through 6A-6.0361, F.A.C., the school district must document its attempts to obtain parental consent using procedures such

as those used to obtain parental participation in meetings.

(9) Parental Consent for Services.

(a) A school district responsible for making FAPE available to an exceptional student must obtain informed consent from the parent of the student before the initial provision of special education and related services to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of ESE services to the student.

(c) If the parent of a student fails to respond or refuses to consent to the initial provision of services, the school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(d) If the parent of the student refuses consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the school district will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the student with the special education and related services for which the school district requests consent. In addition, the school district is not required to convene an IEP Team meeting or develop an IEP for the student for the special education and related services for which the school district requests such consent.

Specific Authority 1001.02(1)(2), (n), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a), (b), 1001.02(2)(n), 1003.57 FS. History New 6-17-74, Repromulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A 6.331, Amended 7-13-93, 1-2-95, 9-20-04, 12-22-08.

#### **6A-6.03311 Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities.**

Each school district must establish, maintain and implement procedural safeguards that meet the requirements of this rule.

(1) Prior written notice. The school district shall provide parents with written notice a reasonable time before proposing or refusing to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education (FAPE) to the student. Prior notice may be provided at any meeting where such proposal or refusal is made. Graduation from high school with a regular diploma constitutes a change in placement, requiring prior written notice.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication used by the parents, unless it is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated orally or by other means to the parents in their native language or other mode of communication;
2. That the parents understand the content of the notice; and

3. That there is written documentation that these requirements have been met.

(c) The notice to the parents shall include

1. A description of the action proposed or refused by the school district;

2. An explanation of why the school district proposes or refuses to take the action;

3. A description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action;

4. A statement that the parents of a student with a disability have protection under the procedural safeguards of these rules and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

5. Sources for parents to contact to obtain assistance in understanding the provisions of Rules 6A-6.03011 through 6A-6.0361, F.A.C.;

6. A description of other options that the individual education plan (IEP) team considered and the reasons why those options were rejected; and

7. A description of other factors that are relevant to the school district's proposal or refusal.

(2) Provision of Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions of Rules 6A-6.03011 through 6A-6.0361, F.A.C., relating to:

1. Prior written notice;

2. Parental consent;

3. Access to education records

4. The availability of mediation

5. The opportunity to present and resolve complaints through the state complaint and due process hearing procedures, including the time period in which to file a complaint, the opportunity for the school district to resolve the complaint, and the difference between the request for due process procedures and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures pursuant to subsection 6A-6.03311(5), F.A.C.;

6. Independent educational evaluations;

7. Procedures for students who are subject to placement in an interim alternative educational setting;

8. Requirements for placement of students with disabilities in private school by their parents at public expense;

9. Due process hearings, including the student's placement during the pendency of any due process hearing request and requirements for disclosure of evaluation results and recommendations;

10. Civil actions, including the time period in which to file those actions; and

11. Attorney's fees

(b) A copy of the procedural safeguards must be given to the parents of a student with a disability only one time a school year, except that a copy also must be given to the parents:

1. Upon initial referral or parent request for evaluation;

2. In accordance with the discipline procedures when a change in placement occurs;

3. Upon receipt of the first State complaint and upon receipt of the first request for a due process hearing in a school year; and

4. Upon request by a parent.

(c) A school district may place a current copy of the procedural safeguards on its internet Web site, if a Web site exists.

(d) A parent of a student with a disability may elect to receive notices required by this rule by an electronic mail communication, if the school district makes that option available.

(e) The procedural safeguards must be provided in an understandable language as provided under subsection (1) of this rule.

(3) Parents' opportunity to inspect and review education records.

(a) The parents of a student with a disability shall be afforded an opportunity to inspect and review their student's educational records including all records related to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child in accordance with Rule 6A-1.0955, F.A.C., Section 1002.22, F.S., and 34 CFR §§ 300.613-625.

(b) The right to inspect and review education records under this rule includes the right to have a representative of the parent inspect and review the records.

(4) Mediation. The Department of Education shall provide parents of students with disabilities and school district personnel the opportunity to resolve disputes involving any matter related to a proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of FAPE to the student, including matters arising prior to the filing of a request for due process, through a mediation process. To promote the resolution of disputes, both parties should consider limiting the number of participants in a mediation session.

(a) Requirements. The mediation process must:

1. Be voluntary on the part of both parties;

2. Not be used to deny or delay a parent's right to a due process hearing under subsection (10) of this rule or any other rights under this rule;

3. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(b) The Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(c) If a mediator is not selected on a random or rotational basis from the list described in paragraph (4)(b) of this rule, both the parent and the school district must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(d) The Department of Education shall bear the cost of the mediation process described in subsection (4) of this rule.

(e) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to both the parent and the school district.

(f) If the parties resolve a dispute through the media-

tion process, the parties must execute a legally binding agreement that:

1. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings;

2. Is signed by both the parent and a representative of the school district who had the authority to bind the district; and

3. Is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(g) Whether or not the dispute is resolved through mediation, discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any Federal court or State court.

(h) Impartiality of the Mediator. An individual who serves as a mediator:

1. May not be an employee of any school district or any state agency that is involved in the education or care of the student;

2. Must not have a personal or professional interest that conflicts with the person's objectivity; and.

3. Is not an employee of a school district or state agency solely because he or she is paid by the Department of Education to serve as a mediator.

(5) State complaint procedures. The Department of Education shall provide parents and other interested persons, including an organization or individual from another state, the opportunity to resolve any complaint that a school district has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or its implementing regulations regarding the education of students with disabilities through its state complaint procedures. The Department of Education shall disseminate its state complaint procedures to parents and other interested individuals, including the parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

(a) Within sixty (60) calendar days after a complaint is filed under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that an investigation is necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

3. Provide the school district with the opportunity to respond to the complaint, including, at a minimum:

a. A proposal to resolve the complaint, at the discretion of the school district; and

b. An opportunity for a parent who has filed a complaint and the school district to engage in mediation consistent with this rule.

4. Review all relevant information and make an independent determination as to whether the school district is violating a federal requirement regarding the education of students with disabilities;

5. Issue a written decision to the complainant that

addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and

6. Extend the time limit established in paragraph (6) (a) of this rule only if exceptional circumstances exist with respect to a particular complaint or the parent and the school district involved agree to extend the time to engage in mediation pursuant to subsection (5) of this rule.

(b) Procedures for the effective implementation of the Department of Education's final decision, if needed, include the following:

1. Technical assistance activities;

2. Negotiations;

3. Corrective actions to achieve compliance; and

4. Where the Department of Education has found a failure to provide appropriate services, the Department must address the failure to provide appropriate services, including corrective action appropriate to address the needs of the student (such as compensatory services or monetary reimbursement) and appropriate future provision of services for all students with disabilities.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in this rule.

2. If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding on that issue and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint which alleges that a school district has failed to implement a due process hearing decision.

(d) Filing a complaint. An organization or individual may file a signed written complaint and must forward a copy of the complaint to the school district serving the student at the same time the party files the complaint with the Department of Education. The complaint must include:

1. A statement that a school district has violated a requirement of Part B of the IDEA or its implementing regulations regarding the education of students with disabilities;

2. The facts on which the statement is based

3. The signature and contact information for the complainant; and

4. If alleging violations with regard to a specific student:

a. The name and address of the residence of the student;

b. The name of the school the student is attending;

c. In the case of a homeless student or youth, available contact information for the student, and the name of the school the student is attending;

d. A description of the nature of the problem of the

student, including facts relating to the problem;

e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed; and

f. Alleged violations that occurred not more than on (1) year prior to the date that the complaint is received.

(e) The Department of Education will develop a model form to assist parents and other parties in filing a state complaint. However, neither the Department of Education nor a school district may require the use of the model form. Parents, school districts, and other appropriate parties may use the appropriate model form or another form or other document, as long as the form or other document that is used meets, as appropriate, the content requirements in paragraph (5)(d) above.

(6) Independent educational evaluations.

(a) A parent of a student with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

(b) The parent of a student with a disability has the right to be provided, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and of the school district criteria applicable to independent educational evaluations.

(c) For purposes of this section, independent educational evaluation is defined to mean an evaluation conducted by a qualified evaluation specialist who is not an employee of the school district responsible for the education of the student in question.

(d) Public expense is defined to mean that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(e) Whenever an independent educational evaluation is conducted, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the evaluation specialist, shall be the same as the criteria used by the school district when it initiates an evaluation, to the extent that those criteria are consistent with the parent's right to an independent educational evaluation.

(f) The school district may not impose conditions or timelines for obtaining an independent educational evaluation at public expense other than those criteria described in this rule.

(g) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay either:

1. Ensure that an independent educational evaluation is provided at public expense; or

2. Initiate a due process hearing under this rule to show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school district's criteria. If the school district initiates a hearing and the final decision from the hearing is that the district's evaluation is appropriate, then the parent still has a right to an independent educational evaluation, but not at public expense.

(h) If a parent requests an independent educational

evaluation, the school district may ask the parent to give a reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the school district's evaluation.

(i) A parent is entitled to only one (1) independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

(j) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the school district an evaluation obtained at private expense:

1. The school district shall consider the results of such evaluation in any decision regarding the provision of FAPE to the student, if it meets appropriate district criteria described in this rule; and

2. The results of such evaluation may be presented by any party as evidence at any due process hearing regarding that student.

(k) If an administrative law judge requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

(7) Placement of students with disabilities in private schools by their parents when the provision of FAPE is at issue.

(a) A school district is not required to pay for the costs of education, including special education and related services, of a student with a disability at a private school or facility if that school district has made FAPE available to the student and the parents elected to place the student in a private school or facility. However, the school district must include that student in the population whose needs are addressed consistent with Rule 6A-6.030281, F.A.C.

(b) Disagreements between a parent and a school district regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures described in this rule.

(c) If the parents of a student with a disability, who previously received special education and related services under the authority of a school district, enroll the student in a private preschool, elementary, or secondary school without the consent of or referral by the school district, a court or an administrative law judge may require the school district to reimburse the parents for the cost of that enrollment if the court or administrative law judge finds that the school district had not made FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the state standards that apply to education provided by the Department of Education and the school district.

(d) The cost of reimbursement described in paragraph (c) of this subsection may be reduced or denied if:

1. At the most recent IEP Team meeting that the parents attended prior to removal of the student from the

public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the school district to provide FAPE to their student, including stating their concerns and their intent to enroll their student in a private school at public expense or at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the school district of the information described herein;

2. Prior to the parents' removal of the child from the public school, the school district informed the parents, through the notice requirements described in Rules 6A-6.03011 through 6A-6.0361, F.A.C., of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

3. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

4. Exception. Notwithstanding the notice requirement in subparagraph 1. of this section, the cost of reimbursement must not be reduced or denied for failure to provide the notice if:

a. The school prevented the parent from providing the notice;

b. The parents had not received notice, pursuant to the procedural safeguards requirements, of the notice requirement in subparagraph 1. of this section; or

c. Compliance with paragraph (i) of this section would likely result in physical harm to the student; and

5. Notwithstanding the notice requirement in subparagraph (7)(d)1., of this rule, the cost of reimbursement may not, in the discretion of the court or a hearing officer, be reduced or denied for failure to provide this notice if:

a. The parent is not literate or cannot write in English; or

b. Compliance with subparagraph (7)(d)1. of this section would likely result in serious emotional harm to the student.

(8) Transfer of Parental Rights at the Age of Majority.

(a) When a student with a disability reaches the age of eighteen (18), (except for a student with a disability who has been determined incompetent under State law or who has had a guardian advocate appointed to make educational decisions as provided by Section 393.12, F.S.), the right to notice under Rules 6A-6.03011 through 6A-6.0361, F.A.C., is retained as a shared right of the parent and the student.

(b) All other rights afforded to parents under Rules 6A-6.03011 through 6A-6.0361, F.A.C., transfer to the student.

(c) The school district shall notify the student and the parent of the transfer of rights, when the student attains the age of eighteen (18).

(d) For a student with a disability who has attained age eighteen (18) and is incarcerated in a juvenile justice facility or local correctional facility, all rights accorded to parents under this rule transfer to the student, including the right to notice as described in this rule. For students incarcerated in state correctional facilities, all rights accorded to parents under this rule transfer to the student, including notice, regardless of the age of the student.

(e) If a student with a disability has reached the age of majority and does not have the ability to provide informed consent with respect to his or her educational program, procedures established by statute may be used by the parent to:

1. Have the student declared incompetent and the appropriate guardianship established in accordance with the provisions of Chapter 744, F.S.;

2. Be appointed to represent the educational interests of their student throughout the student's eligibility for FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C.; or

3. Have another appropriate individual appointed to represent the educational interests of the student throughout the student's eligibility for FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C., if the parent is not available in accordance with Section 393.12, F.S.

(9) Due process Hearings and Resolution Sessions.

(a) A due process hearing request may be initiated by a parent or a school district as to matters related to the identification, evaluation, or educational placement of a student or the provision of FAPE to the student.

(b) A due process hearing request must allege a violation that occurred not more than two (2) years before the date the parent or school district knew or should have known about the alleged action that forms the basis of the due process hearing request. This limitations period does not apply to a parent if the parent was prevented from filing a due process hearing request because of:

1. Specific misrepresentations by the school district that it had resolved the problem forming the basis of the due process hearing request; or

2. The school district's withholding of information from the parent that was required under Rules 6A-6.03011 through 6A-6.0361, F.A.C., to be provided to the parent.

(c) Information for parents. The school district must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or the parent or the school district files a due process hearing request.

(d) The due process hearing request. The school district must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process hearing request (which must remain confidential). The party filing a due process hearing request must forward a copy of the request to the Florida Department of Education. A due process hearing request must contain the following:

1. The name of the student

2. The address of the residence of the student

3. The name of the school the student is attending

4. In the case of a homeless student or youth, available contact information for the student and the name of the school the student is attending;

5. A description of the nature of the problem of the student relating to the proposed or refused initiation or change in the identification, evaluation, placement or provision of FAPE to the student, including facts relating to the problem; and

6. A proposed resolution of the problem to the extent known and available to the party at the time, including any

remedy authorized by the IDEA.

(e) A party may not have a hearing on a due process hearing request or engage in a resolution session, as described below, until the party, or the attorney representing the party, files a due process hearing request that meets the requirements of paragraph (d) of this subsection.

(f) The Department of Education will develop a model form to assist parents and school districts in filing a due process hearing request. However, neither the Department of Education nor a school district may require the use of the model form. Parents and school districts may use the appropriate model form or another form or other document, as long as the form or other document that is used meets, as appropriate, the content requirements in paragraph (d) of this subsection.

(g) A due process hearing request will be deemed sufficient unless the party receiving the due process hearing request notifies the administrative law judge (ALJ) and the other party in writing, within fifteen (15) days of receipt of the due process hearing request, that the receiving party believes the due process hearing request does not meet the requirements in paragraph (d) of this subsection. Within five (5) days of receipt of the notification of insufficiency, the ALJ must make a determination on the face of the due process hearing request of whether it meets the requirements of paragraph (d) of this subsection, and must immediately notify the parties in writing of that determination.

(h) A party may amend its due process hearing request only if the other party consents in writing to the amendment and is given the opportunity to resolve the due process hearing request through a resolution session held pursuant to paragraph (l) of this subsection or the ALJ grants permission, except that the ALJ may only grant permission to amend at any time not later than five (5) days before the due process hearing begins. If a party files an amended due process hearing request, the timelines for the resolution session in paragraph (l) of this subsection and the thirty (30) day time period to resolve the request as set forth in paragraph (o) of this subsection begin again with the filing of the amended due process hearing request.

(i) School district response to a due process hearing request. If the school district has not sent a prior written notice under Rules 6A-6.03011 through 6A-6.0361, F.A.C., to the parent regarding the subject matter contained in the parent's due process hearing request, the school district must, within ten (10) days of receiving the due process hearing request, send to the parent a response that includes:

1. An explanation of why the school district proposed or refused to take the action raised in the due process hearing request;
2. A description of other options that the IEP team considered and the reasons why those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; and
4. A description of the other factors relevant to the school district's proposed or refused action.

(j) A response by a school district under paragraph (i) of this subsection shall not be construed to preclude the

school district from asserting that the parent's due process hearing request was insufficient, where appropriate.

(k) Other party response to a due process hearing request. Except as provided in paragraph (i) of this subsection, the party receiving a due process hearing request must, within ten (10) days of receiving the due process hearing request, send to the other party a response that specifically addresses the issues raised in the due process hearing request.

(l) Resolution session. Within fifteen (15) days of receiving notice of a parent's due process hearing request and prior to convening a due process hearing, the school district must convene a meeting with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process hearing request that:

1. Includes a representative of the school district who has decision-making authority on behalf of that district; and
2. May not include an attorney of the school district, unless the parent is accompanied by an attorney.

(m) The purpose of the resolution meeting is for the parents to discuss their due process hearing request and the facts that form the basis of the due process hearing request, so that the school district has the opportunity to resolve the dispute that is the basis for the due process hearing request. The resolution meeting need not be held if:

1. The parent and the school district agree in writing to waive the meeting; or
2. The parent and the school district agree to use the mediation process described in this rule.

(n) The parent and the school district determine the relevant members of the IEP team to attend the meeting.

(o) Resolution period. If the school district has not resolved the due process hearing request to the satisfaction of the parents within thirty (30) days of the receipt of the due process hearing request, the due process hearing may occur and, except as provided in paragraph (r) of this subsection, the forty-five (45)-day timeline for issuing a final decision begins at the expiration of this thirty (30)-day period.

(p) Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of a parent filing a due process hearing request to participate in the resolution meeting will delay the thirty (30)-day resolution timeline and the forty-five (45)-day due process hearing timeline until the meeting is held. If the school district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the school district may, at the conclusion of the thirty (30)-day period, request that the ALJ dismiss the parent's due process hearing request.

(q) If the school district fails to hold the resolution meeting within fifteen (15) days of receiving notice of a parent's due process hearing request or fails to participate in the resolution meeting, the parent may seek the intervention of an ALJ to begin the due process hearing timeline.

(r) Adjustments to the thirty (30)-day resolution period. The forty-five (45)-day timeline for the due process hearing starts the day after one of the following events:

1. Both parties agree in writing to waive the resolution meeting;

2. After either the mediation or resolution meeting starts but before the end of the thirty (30)-day period, the parties agree in writing that no agreement is possible; or

3. If both parties agree in writing to continue the mediation at the end of the thirty (30)-day resolution period, but later, the parent or school district withdraws from the mediation process.

(s) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraph (l) of this subsection, the parties must execute a legally binding agreement that is:

1. Signed by both the parent and a representative of the school district who has the authority to bind the school district; and

2. Enforceable in any State court of competent jurisdiction or in a district court of the United States.

(t) Agreement review period. If the parties execute an agreement pursuant to paragraph(s) of this subsection, a party may void the agreement within three (3) business days of the agreement's execution.

(u) Should a hearing be required, it shall be conducted by an ALJ appointed as required by Section 120.65, Florida Statutes, from the Division of Administrative Hearings (DOAH), Department of Management Services, on behalf of the Department of Education. At a minimum, an ALJ must not be an employee of the Department of Education or the school district that is involved in the education or care of the student or have a personal or professional interest that conflicts with the person's objectivity in the hearing. In addition, an ALJ must possess knowledge of, and the ability to understand, the provisions of the IDEA, federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts; must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. A person who otherwise qualifies to conduct a hearing under this paragraph is not an employee of the agency solely because he or she is paid by the agency to serve as an ALJ. The Florida Department of Education will keep a list of the persons who serve as ALJs, which must include a statement of the qualifications of each of those persons.

(v) An ALJ shall use the provisions of Rules 6A-6.03011 through 6A-6.0361, F.A.C., for conducting due process hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, F.A.C. Minimum procedures for due process hearings shall include the following:

1. Hearing rights. Any party to a due process hearing has the right:

a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, F.A.C., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students with disabilities, or any combination of the

above;

b. To present evidence, and to confront, cross-examine, and compel the attendance of witnesses;

c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;

d. To obtain written, or, at the option of the parents, electronic verbatim record of the hearing at no cost to the parents; and

e. To obtain written, or, at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

a. At least five (5) business days prior to a hearing conducted pursuant to this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An ALJ may bar any party that fails to comply with sub-subparagraph (9)(v)2.a. of this rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

3. Additional parental rights at hearings. In addition to the rights already identified in this rule, parents involved in hearings must be given the right to:

a. Have their student who is the subject of the hearing present;

b. Open the hearing to the public; and

c. Have the record of the hearing and the findings of fact and decisions described above provided at no cost to the parents.

4. Hearing decisions. An ALJ's determination of whether a student received FAPE must be based on substantive grounds. In matters alleging a procedural violation, an ALJ may find that a student did not receive FAPE only if the procedural inadequacies impeded the student's right to FAPE; significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the student; or caused a deprivation of educational benefit. This shall not be construed to preclude an ALJ from ordering a school district to comply with the procedural safeguards set forth in Rules 6A-6.03011 through 6A-6.0361, F.A.C. In addition, nothing in Rules 6A-6.03011 through 6A-6.0361, F.A.C., shall be construed to preclude a parent from filing a separate request for due process on an issue separate from a request for due process already filed.

5. Findings and decision to advisory panel and general public. The state educational agency (SEA), after deleting any personally identifiable information, must transmit the findings and decisions of the ALJ to the State Advisory Committee for the Education of Exceptional Students and make those findings and decisions available to the public.

6. Timelines and convenience of hearings and reviews. The SEA must ensure that not later than forty-five (45) days after the expiration of the thirty (30) day period for resolution pursuant to paragraph (9)(o) of this rule, or the adjusted time period described in this rule, a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties. An ALJ may grant specific extensions of time beyond these time periods at the request

of either party. Each hearing must be conducted at a time and place that is reasonably convenient to the parents and the student involved.

(w) Civil Action. A decision made in a due process hearing shall be final, unless, within ninety (90) days from the date of the decision of the ALJ, a party aggrieved by the decision brings a civil action in federal district or state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), F.S. The state circuit or federal district court shall receive the records of the administrative proceedings; hear additional evidence at the request of a party; and basing its decision on the preponderance of the evidence, grant the relief it determines appropriate. Nothing in this rule restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of students with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under the procedures safeguards available under the IDEA, the procedures related to due process hearings must be exhausted to the same extent as would be required had the action been brought under the IDEA.

(x) Attorneys' Fees

1. In any due process hearing or subsequent judicial proceeding brought under this rule, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to:

- a. The prevailing party who is the parent of a student with a disability;
- b. To a prevailing party who is the Department of Education or school district against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- c. To the prevailing Department of Education or school district against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

2. Prohibition on use of funds. Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Rules 6A-6.03011 through 6A-6.0361, F.A.C. However, this does not preclude a school district from using funds under Part B of the IDEA for conducting a due process hearing or subsequent judicial proceedings under the IDEA.

3. Award of fees. A court awards reasonable attorneys' fees under this paragraph consistent with the following:

- a. Fees awarded must be based on rates prevailing in the community in which the due process hearing or judicial proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.
- b. Attorneys' fees may not be awarded and related costs may not be reimbursed in any due process hearing

or judicial proceeding for services performed subsequent to the time of a written offer of settlement to a parent if the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing, at any time more than ten (10) days before the hearing begins; the offer is not accepted within ten (10) days; and the court or ALJ finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. An award of attorneys' fees and related costs may be made, however, to a parent who is the prevailing party and was substantially justified in rejecting the settlement offer.

c. Attorneys' fees may not be awarded relating to any meeting of the IEP team, unless the meeting is convened as a result of a due process hearing or judicial proceeding. For purposes of this section, a resolution session/meeting conducted pursuant to this rule is not considered a meeting convened as a result of a due process hearing or judicial proceeding or a due process hearing or judicial proceeding.

4. Except as provided in paragraph (e) of this subsection, the court reduces, accordingly, the amount of the attorneys' fees awarded, if the court finds that:

- a. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- b. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
- c. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- d. The attorney representing the parent did not provide to the school district the appropriate information in the due process request in accordance with this rule.
- e. The provisions of subsection (4) of this subsection do not apply in any action or proceeding if the court finds that the Department of Education or the school district unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 1415 of the IDEA.

(y) Student's status during proceedings. Except as provided in Rule 6A-6.03312, F.A.C., which addresses discipline of students with disabilities, during the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the parent of the student and the school district agree otherwise, the student involved in the proceeding must remain in the then-current placement. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings. If the due process hearing involves an application for initial services under Rules 6A-6.03011 through 6A-6.0361, F.A.C., from a student who is transitioning from an IDEA Part C Early Intervention program to an IDEA Part B program and is no longer eligible for Part C services because the student has turned three (3), the school district is not required to provide the Part C services that the student had been receiv-

ing. If the student is found eligible for special education and related services under Part B and the parent consents to the initial provision of such services, then the school district must provide those special education and related services that are not in dispute between the parent and the school district. If the ALJ agrees with the parent that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of determining the stay-put placement for the student.

Specific Authority 1001.02(1), (2)(n), 1003.01(3), 1003.57 FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01(3), 1003.57, 1011.62(1)(c) FS. History—New 7-13-83, 12-20-83, 4-26-84, Formerly 6A-6.3311, Amended 7-17-90, 9-20-04, 12-22-08. Cf. P.L. 105-17, 20 USC 1414 and 1415

### **6A-6.03312 Discipline Procedures for Students with Disabilities.**

For students with disabilities whose behavior impedes their learning or the learning of others, strategies, including positive behavioral interventions and supports to address that behavior must be considered in the development of their individual educational plans (IEPs). School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements and procedures in this rule, is appropriate for a student with a disability who violates a code of student conduct.

(1) Definitions applicable to discipline of students with disabilities. For purposes of this rule, the following definitions apply:

(a) Change of placement because of disciplinary removals. For the purpose of removing a student with a disability from the student's current educational placement as specified in the student's IEP under this rule, a change of placement occurs when:

1. The removal is for more than ten (10) consecutive school days, or
2. The student has been subjected to a series of removals that constitutes a pattern that is a change of placement because the removals cumulate to more than ten (10) school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another. A school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement, and this determination is subject to review through due process and judicial proceedings.

(b) Controlled substance. A controlled substance is a drug or other substance identified under schedules I, II, III, IV, or V of the Controlled Substances Act, 21 U.S.C. 812(c) and Section 893.02(4), F.S.

(c) Illegal drug. An illegal drug means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Sub-

stances Act, 21 U.S.C. 812(c) or under any other provision of federal law.

(d) Serious bodily injury. Serious bodily injury means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) Weapon. Weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade that is less than two and one half (2 1/2) inches in length.

(f) Manifestation determination. A manifestation determination is a process by which the relationship between the student's disability and a specific behavior that may result in disciplinary action is examined.

(g) Interim alternative educational setting. An interim alternative educational setting (IAES) is a different location where educational services are provided for a specific time period due to disciplinary reasons and that meets the requirements of this rule.

(2) Authority of school personnel. Consistent with the school district's Code of Student Conduct and to the extent that removal would be applied to students without disabilities, school personnel may:

(a) Remove a student with a disability who violates a code of student conduct from the student's current placement for not more than ten (10) consecutive school days.

(b) Further remove a student with a disability for not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement as defined in this rule.

(3) Manifestation determination. A manifestation determination, consistent with the following requirements, must be made within ten (10) days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct.

(a) In conducting the review, the school district, the parent, and relevant members of the IEP Team (as determined by the parent and the school district) must:

1. Review all relevant information in the student's file, including any information supplied by the parents of the student, any teacher observations of the student, and the student's current IEP; and

2. Determine whether the conduct in question was caused by, or had a direct and substantial relationship to the student's disability or whether the conduct in question was the direct result of the school district's failure to implement the IEP.

(b) If the school district, the parent, and relevant members of the IEP Team determine that a condition in subparagraph (a)2. above was met, the conduct must be determined to be a manifestation of the student's disability and the school district must take immediate steps to remedy those deficiencies.

(c) If the school district, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the student's disability, the IEP Team must

either:

1. Conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or

2. If a behavioral intervention plan already has been developed, review it and modify it, as necessary, to address the behavior; and

3. Except as provided in subsection (6) of this rule, return the student to the placement from which the student was removed, unless the parent and the school district agree to a change in placement as part of the modification of the behavior intervention plan.

(d) For disciplinary changes of placement, if the behavior that gave rise to the violation of a code of student conduct is determined not to be a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that services consistent with subsection (5) of this rule must be provided to the student with a disability.

(e) If a parent disagrees with the manifestation determination decision made by the IEP Team pursuant to this rule, the parent may appeal the decision by requesting an expedited due process hearing as described in subsection (7) of this rule.

(4) On the date on which a decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district must notify the parent of the removal decision and provide the parent with a copy of the notice of procedural safeguards as referenced in these rules.

(5) Free appropriate public education for students with disabilities who are suspended or expelled or placed in an IAES.

(a) A school district is not required to provide services to a student with a disability during removals totaling ten (10) school days or less in that school year, if services are not provided to students without disabilities who are similarly removed.

(b) Students with disabilities who are suspended or expelled from school or placed in an IAES must continue to receive educational services, including homework assignments in accordance with Section 1003.01, F.S., so as to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP and receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

(c) After a student with a disability has been removed from the current placement for ten (10) school days in the school year, if the current removal is not more than ten (10) consecutive school days and is not a change of placement under this rule, school personnel, in consultation with at least one of the student's special education teacher(s), shall determine the extent to which services are needed

so as to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

(d) If the removal is a change of placement under this rule, the student's IEP Team determines appropriate services under paragraph (b) of this subsection.

(6) Special Circumstances and Interim Alternative Educational Setting (IAES).

(a) School personnel may remove a student to an IAES for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries a weapon to or possesses a weapon at school, on school premises, or to a school function under the jurisdiction of a state education agency or a school district;

2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state education agency or a school district; or

3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state education agency or a school district.

(b) On the date on which a decision is made to make a removal that constitutes a change of placement because of a violation of a code of student conduct, the school district must notify the parent of that decision and provide the parent with a copy of the notice of procedural safeguards as referenced in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(7) Appeal and Expedited Hearing

(a) An expedited hearing may be requested

1. By the student's parent if the parent disagrees with a manifestation determination or with any decision not made by an administrative law judge (ALJ) regarding a change of placement under this rule, or

2. By the school district if it believes that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

(b) The school district may repeat the procedures for expedited hearings if it believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

(c) Expedited due process hearings requested under this subsection shall be conducted by an ALJ for the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education, and shall be held at the request of either the parent or the school district regarding disciplinary actions. These hearings must meet the requirements prescribed in Rules 6A-6.03011 through 6A-6.0361, F.A.C., except that the hearing must occur within twenty (20) school days of the date the request for due process is filed and an ALJ must make a determination within ten (10) school days after the hearing. In addition, unless the parents and the school district agree in writing to waive the resolution meeting described herein or agree to use the mediation process set forth in these rules:

1. A resolution meeting must occur within seven (7)

days of receiving notice of the request for expedited due process hearing; and

2. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the request for expedited due process hearing.

(d) The decision of the ALJ rendered in an expedited hearing may be appealed by bringing a civil action in a federal district or state circuit court, as provided in Section 1003.57(1), F.S.

(8) Authority of an ALJ. An ALJ hears and makes a determination regarding an appeal and request for expedited due process hearing under this subsection and, in making the determination:

(a) An ALJ may return the student with a disability to the placement from which the student was removed if the ALJ determines that the removal was a violation of this rule or that the student's behavior was a manifestation of the student's disability; or

(b) Order a change of placement of the student with a disability to an appropriate IAES for not more than forty-five (45) school days if the ALJ determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

(c) The procedures under this subsection may be repeated, if a school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

(9) Student's Placement During Appeals/Expedited Due Process Proceedings. When an appeal under subsection (7) has been made by either the parent or the school district, the student must remain in the IAES determined by the IEP team pending the decision of the ALJ or until the expiration of the time period specified by school personnel, including expulsion for a student where no manifestation was found, unless the parent and the Department of Education or school district agree otherwise.

(10) Protections for Students not Determined Eligible for Special Education and Related Services. A regular education student who has engaged in behavior that violated a code of student conduct may assert any of the protections afforded to a student with a disability under this rule if the school district had knowledge of the student's disability before the behavior that precipitated the disciplinary action occurred.

(a) Basis of knowledge. A school district is deemed to have knowledge that a student is a student with a disability if:

1. The parent has expressed concern in writing to supervisory or administrative personnel of the appropriate school district, or a teacher of the student, that the student needs special education and related services;

2. The parent has requested an evaluation to determine whether the student is in need of special education and related services; or

3. The teacher of the student, or other school district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the school district's special education director or to other supervisory school district personnel.

(b) Exception. A school district would not be deemed to have knowledge of a disability under paragraph (a) if:

1. The parent of the student has not allowed an evaluation pursuant to Rules 6A-6.03011 through 6A-6.0361, F.A.C., or has refused special education and related services under Rules 6A-6.03011 through 6A-6.0361, F.A.C.; or

2. The school district conducted an evaluation in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., and determined that the student was not a student with a disability.

(c) Conditions that Apply if No Basis of Knowledge.

1. If the school district has no knowledge that the student is a student with a disability prior to disciplinary action, the student may be disciplined in the same manner as a student without a disability who engages in comparable behaviors.

2. If an evaluation request is made for the student during the time period of the disciplinary action, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the school district shall provide special education and related services consistent with the requirements of this rule.

(11) Nothing in this rule prohibits a school district from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.

(12) Student Records in Disciplinary Procedures. School districts shall ensure that the special education and disciplinary records of students with disabilities are transmitted, consistent with the provisions of Section 1002.22, F.S., and Rule 6A-1.0955, F.A.C.:

(a) For consideration by the person making the final determination regarding the disciplinary action; and

(b) For consideration by the appropriate authorities to whom school districts report crimes.

(13) Disciplinary Records of Students with Disabilities. School districts shall include in the records of students with disabilities a statement of any current or previous disciplinary action that has been taken against the student and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

(a) The statement may be a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals involved with the student.

(b) If the student transfers from one school to another, the transmission of any of the student's records must include both the student's current IEP and any statement of current or previous disciplinary action that has been taken against the student.

(14) Suspension and expulsion rates.

(a) The Florida Department of Education, will examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities:

1. Among school districts in the state; or
2. Compared to the rates for non-disabled children within the school districts.

(b) If the discrepancies described in paragraph (a) of this subsection are occurring, the Department of Education will review and, if appropriate, revise (or require the affected school district to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the IDEA.

Specific Authority 1001.02(1), (2)(n), 1003.01(3), 1003.31(3), 1003.57, 1006.09 FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01, 1003.31(3), 1003.57, 1006.09 FS. History—New 9-20-04, Amended 12-22-08.  
Cf. P.L. 105-17, 20 USC 1401, 1414, and 1415

#### **\*6A-6.03313 Procedural Safeguards for Exceptional Students who are Gifted.**

Providing parents with information regarding their rights under this rule is critical to ensuring that they have the opportunity to be partners in the decisions regarding their children. It is also critical that local school boards provide information about these rights to appropriate district and school personnel so that the needs of the student can be identified and appropriately met. The school board's policy and procedures for procedural safeguards shall be set forth in accordance with Rule 6A-6.03411, FAC., and shall include adequate provisions for the following:

(1) Prior notice. The school district shall provide parents with prior written notice a reasonable time before any proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication commonly used by the parent unless such communication is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated to the parents orally or by other means in their native language or mode of communication;
2. That the parents understand the content of the notice; and
3. That there is written documentation that the requirements of subparagraphs (1)(b)1. and 2. of this rule have been met.

(c) The notice to the parents shall include

1. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the district considered and the reasons why those

options were rejected;

2. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

3. A description of any other factors that are relevant to the district's proposal or refusal; and

4. Information on how the parent can obtain a copy of the procedural safeguards specified in this rule.

(2) Content and Provision of the Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions included in this rule.

(b) A copy of the procedural safeguards must be available to the parents of a child who is gifted, and must be given to the parents, at a minimum:

1. Upon initial referral for evaluation;
2. Upon refusal of a parent's request to conduct an initial evaluation;
3. Upon notification of each EP meeting; and
4. Upon receipt of a request for a due process hearing by either the school district or the parent in accordance with subsection (7) of this rule.

(3) Informed parental consent.

(a) Parents shall be fully informed of all information relevant to the action for which consent is sought in their native language or other mode of communication unless such communication is clearly not feasible.

(b) Written parental consent shall be obtained prior to conducting an initial evaluation to determine eligibility and prior to initial provision of services to students who are gifted.

(c) School districts shall document the attempts to secure consent from the parent as required by paragraph (3)(b) of this rule.

(d) Parental consent is voluntary and may be revoked at any time before the action occurs.

(e) Except for formal, individual evaluation and the initial provision of services to the student, consent may not be required as a condition of any other benefit to the parent or child. Any proposal or refusal to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the student after the initial placement is not subject to parental consent but is subject to prior notice as defined by subsection (1) of this rule.

(f) Parental consent is not required before:

1. Reviewing existing data as part of an evaluation; or,
2. Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all children.

(4) Parents' opportunity to examine records and participate in meetings.

(a) The parents of students who are gifted shall be afforded, in accordance with Rule 6A-1.0955, FAC., Section 1002.22, Florida Statutes, and this rule, an opportunity to inspect and review their child's educational records.

(b) The right to inspect and review education records under this rule includes the right to have a representative

\* Please contact the Bureau of Exceptional Education and Student Services/ Clearinghouse Information Center for the most recent version of the procedural safeguards for students identified as gifted.

of the parent inspect and review the records including all records related to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(c) The parents of a student who is gifted must be afforded an opportunity to participate in meetings with respect to the development of their child's educational plan.

(5) Evaluations obtained at private expense. If the parent obtains an independent evaluation at private expense which meets the requirements of subsection (4) of Rule 6A-6.0331, FAC., the results of the evaluation must be considered by the school district in any decision made with the respect to the determination of eligibility for exceptional student education services.

(a) The results of such evaluation may be presented as evidence at any hearing authorized under subsection (7) of this rule.

(b) If an administrative law judge requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense, as defined in paragraph (7)(c) of Rule 6A-6.03411, FAC.

(6) State Complaint Procedures. The Department of Education shall provide parents and other interested persons the opportunity to resolve allegations that a school district has violated state requirements regarding the education of students who are gifted through the establishment of state complaint procedures.

(a) Within ninety (90) calendar days after a complaint is filed, under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that to be necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

3. Review all relevant information and make an independent determination as to whether the school district is violating a state requirement regarding the education of students who are gifted;

4. Issue a written decision on the complaint that addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and

5. Extend the time limit established in paragraph (6)(a) of this rule if exceptional circumstances exist with respect to a particular complaint.

(b) Procedures for the effective implementation of the Department of Education's final decision include the following:

1. Technical assistance activities;
2. Negotiations; and,
3. Corrective actions to achieve compliance.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to subsection (7) of this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any

issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in subsection (6) of this rule.

2. If an issue is raised in a complaint filed under this subsection that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint that alleges that a school district has failed to implement a due process hearing decision.

(7) Due process hearings. Due process hearings shall be available to parents of students who are gifted and to school districts to resolve matters related to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education.

(a) Such hearings may be initiated by a parent or a school district on the proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

(b) A hearing shall be conducted by an administrative law judge from the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education.

(c) An administrative law judge (ALJ) shall use subsection (7) of this rule for any such hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, FAC., as deemed appropriate by the ALJ including, but not limited to: the authority of a party to request a pre-hearing conference, the authority of the ALJ to issue subpoenas to compel the attendance of witnesses and the production of records, and the authority of the ALJ to issue summary rulings in absence of a disputed issue of material fact.

(d) Status of student during proceedings.

1. During the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the district and the parent of the student agree otherwise, the student involved in the proceeding must remain in the present educational assignment. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings.

2. If the administrative law judge agrees with the parent and finds that a change of placement is appropriate, that placement becomes the agreed-upon placement during the pendency of the appeal.

(e) Hearing rights for all parties.

1. Any party to a hearing conducted pursuant to subsection (7) of this rule has the right:

a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, FAC., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students who are gifted, or any combination of the above;

b. To present evidence, and to confront, cross-exam-

ine, and compel the attendance of witnesses;

c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;

d. To obtain written, or at the option of the parents, electronic, verbatim record of the hearing at no cost to the parents; and

e. To obtain written, or at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

a. At least five (5) business days prior to a hearing conducted pursuant to subsection (7) of this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An administrative law judge may bar any party that fails to comply with subparagraph (7)(e)2. of this rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(f) Parental rights at hearings. Parents involved in hearings must be given, in addition to the rights described in paragraph (7)(e) of this rule, the right to:

1. Have their child who is the subject of the hearing present; and

2. Open the hearing to the public.

(g) Duties and responsibilities of the superintendent or designee shall include:

1. Implementing procedures that require the parent of a child who is gifted, or the attorney representing the child, to provide notice to the school district. The notice required, which must remain confidential, must include: the name of the child; the address of the residence of the child; the name of the school the child is attending; a description of the nature of the problem relating to the proposed or refused initiation or change, including facts relating to the problem; and, a proposed resolution of the problem to the extent known and available to the parents at the time. However, the school district may not deny or delay a parent's right to a due process hearing for failure to provide this notice.

2. Immediately forwarding the Division of Administrative Hearings by facsimile transmission of the parent's request for a hearing upon its receipt;

3. Notifying all parties regarding their rights and responsibilities before, during, and after the hearing. This notice should include information to the parent of any free or low cost legal and other relevant services, which are available, if the parent requests this information or if the parent or school district initiates a hearing.

4. Determining whether an interpreter is needed and arranging for the interpreter as required;

5. Complying with the administrative law judge's rulings regarding requests for and exchanges of evidence; discovery; the filing of motions and, scheduling, so as to meet the requirements of this rule, and the deadlines established herein.

6. Arranging for the provision and payment of clerical assistance, the hearing, use of facilities, and a verbatim

transcript of the hearing;

7. Completing other responsibilities specified by the school board.

(h) Duties and responsibilities of the Department of Education shall include:

1. Maintaining a list of persons who serve as administrative law judges including a statement of the qualifications of each of these persons; and,

2. Maintaining an index of the final orders of such hearings and providing this information to the public upon request.

(i) Duties and responsibilities of an administrative law judge shall be:

1. To establish the date, time, and location of the hearing and any pre-hearing conference calls and motion hearings. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and their child;

2. To conduct the hearing in a fair and impartial manner;

3. To ensure that all discovery, motion practice, and pre-hearing procedures are conducted in an expedited manner, consistent with the deadlines established by this rule concerning the exchange of evidence and the issuance of the final decision.

4. To determine if the parent wants an electronic or written copy of the final decision and the administrative record of the hearing;

5. To determine whether the parent wants the hearing open to the public and whether the parent wants their child to attend the hearing;

6. To determine whether the parent's advisor or representative is sufficiently knowledgeable about or trained regarding students who are gifted;

7. To determine how evidence may be exchanged prior to and during the hearing;

8. To determine how witnesses may be compelled to attend, be cross-examined, and confronted during discovery and at the hearing;

9. To determine how evaluations and recommendations may be disclosed prior to and during a hearing;

10. To summarize the facts and findings of the case and to arrive at an impartial decision based solely on information presented during the hearing;

11. To reach a final decision and mail to all parties copies of the facts, findings and decision regarding the hearing within forty-five (45) days of the district's receipt of the parent's request or the filing of the district's request for a hearing, whichever is sooner;

12. To be accountable for compliance with all deadlines and procedures established by the statutes and rules for such hearings;

13. To maintain the confidentiality of all information; and

14. To rule on requests for specific extensions of time beyond the periods set forth in subsection (7) of this rule, at the request of either party.

(j) Civil action. A decision made in a hearing conducted under subsection (7) of this rule shall be final, unless, within thirty (30) days, a party aggrieved by the

decision brings a civil action in state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), Florida Statutes. The state circuit court shall: receive the records of the administrative proceedings; hear, as appropriate, additional evidence at the request of a party; and, basing its decision on the preponderance of the evidence, shall grant the relief it determines appropriate. In the alternative, any party aggrieved by the administrative law judge's decision shall have the right to request an impartial review by the appropriate district court of appeal as provided by Sections 120.68 and 1003.57(5), Florida Statutes.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(5) FS. Law Implemented 1001.42(4)(l) 1003.01(3)(a)(b), 1003.57(5), 1001.03(8) FS. History - New 9-20-2004.

### 6A-6.0333 Surrogate Parents.

A surrogate parent is an individual appointed to act in the place of a parent in safeguarding a student's rights in the exceptional education decision-making process, when the student's parent, after reasonable efforts, cannot be located by the school district, the student is a ward of the state under State law, or the student is an unaccompanied homeless youth.

(1) Minimum qualifications of a surrogate parent. The person qualified as a surrogate parent shall, at a minimum:

(a) Be a citizen of the United States, a resident of the State of Florida, and above the age of eighteen (18);

(b) Not be an employee of any agency involved in the education or care of the student;

(c) Have knowledge and skills acquired by successfully completing training and utilizing training materials developed and approved by the Department of Education to ensure adequate representation of the student; and

(d) Have no personal or professional interest which conflicts with the interest of the student that the surrogate represents.

(2) Appointment of surrogate parent.

(a) Surrogate parents for students who are eligible for or who are suspected of being eligible for special programs made available through a school district or agency under contract with the school district shall be appointed by the district's school superintendent not more than thirty (30) days after the school district determines that the student needs a surrogate parent. Surrogate parents for students who are eligible for or who are suspected of being eligible for special programs made available through a contract from the Department of Education shall be appointed by the individual specified in the contract. In the case of a student who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the student's case, provided the surrogate meets the qualifications in subsection (1) above.

(b) The surrogate parent shall continue in the appointed role until one of the following circumstances occurs:

1. The student is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested;

2. The legal guardianship for the student is assigned to

a person who is able to carry out the role of the parent;

3. The parent, who was previously unknown becomes known; or the whereabouts of a parent which was previously undiscovered, is discovered;

4. The appointed surrogate parent no longer wishes to represent or is unable to represent the student;

5. The superintendent or Department of Education contract designee determines that the appointed surrogate parent no longer adequately represents the student; or

6. The student moves to a geographic location which is not reasonably accessible to the appointed surrogate.

(c) The appointments and termination of appointments of surrogate parents shall be in writing. Terminations initiated by the superintendent or Department of Education contract designee or a request for termination initiated by the surrogate shall list the reasons for such request.

(d) Either party may request a hearing under Chapter 120, F.S., regarding the termination of a surrogate.

(e) Nothing in this rule shall prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

(3) Responsibilities of a surrogate parent. The person appointed as a surrogate parent:

(a) Must become acquainted with the student and be knowledgeable about his or her disability and educational needs;

(b) May represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of FAPE to the student; and

(c) Represent the interests and safeguard the rights of the student in educational decisions which affect the student.

(4) Limits to the surrogate parent's responsibilities. The responsibilities of a person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement or any other area not specifically related to the education of the student.

(5) Rights of the surrogate parent. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation and placement of a student with a disability or a student who is suspected of having a disability as prescribed in Rule 6A-6.0331, F.A.C.

(6) Liability of the surrogate parent. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the student.

(7) Compensation of surrogate parent. A school district may compensate persons appointed as surrogate parents. A person acting as a surrogate parent is not an employee of the district or Department of Education contracted program solely because he or she is paid by the district or Department of Education contracted program to serve as a surrogate parent.

(8) Unaccompanied homeless youth. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency or transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to

the requirements in subsection (1), until a surrogate can be appointed that meets all of the requirements in subsection (1).

Specific Authority 1001.02(1), 1003.01(3), 1003.57, 1006.09 FS. Law Implemented 1001.03(8) 1001.42(4)(1), 1003.01(3), 1003.57 FS. History—New 6-28-83, Formerly 6A-6.333, Amended 12-22-08.  
C.F. P.L. 94-142 (20 U.S.C. 1415(b)(1)(B)). Regulation 300.514, C.F.R.

### **6A-6.0334 Individual Educational Plans (IEPs) and Educational Plans (EPs) for Transferring Exceptional Students.**

(1) Individual Educational Plans (IEPs) and Educational Plans (EPs) for students who transfer school districts within Florida. If an exceptional education student who had an IEP or EP that was in effect in a previous Florida school district transfers to a new Florida school district and enrolls in a new school, the new Florida school district (in consultation with the parents) must provide free and appropriate public education (FAPE) to the student, which includes services comparable to those described in the child's IEP or EP from the previous Florida school district, until the new Florida school district either:

(a) Adopts the child's IEP or EP from the previous school district; or

(b) Develops, adopts, and implements a new IEP or EP that meets the applicable requirements of Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(2) IEPs or EPs for students who transfer from outside Florida. If an exceptional education student who had an IEP or EP that was in effect in a previous school district in another State transfers to a Florida school district and enrolls in a new school within the same school year, the new Florida school district (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP or EP from the previous school district), until the new Florida school district:

(a) Conducts an initial evaluation pursuant to subsections 6A-6.0331(4) and (5), F.A.C., (if determined to be necessary by the new Florida school district); and

(b) Develops, adopts, and implements a new IEP or EP, if appropriate, that meets the applicable requirements of Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(c) The new school district is not required to obtain parental consent for the initial provision of services for transferring exceptional students determined eligible for services in Florida under this rule.

(3) Transmittal of records. To facilitate the transition for a child described in subsections (1) and (2) above:

(a) The new school district in which the student enrolls must take reasonable steps to promptly obtain the student's records, including the IEP or EP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school district in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(b) The previous school district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district.

Specific Authority 1001.02(1), 1003.01(3), 1003.57, 1006.09 FS. Law Implemented 1001.03(8), 1001.42(4)(1), 1003.01(3), 1003.57 FS. History—New 7-13-83, Formerly 6A-6.334, Amended 3-9-92, 12-22-08.

### **6A-6.03411 Definitions, ESE Policies and Procedures, and ESE Administrators.**

(1) Definitions. As used in Rules 6A-6.03011 through 6A-6.0361, F.A.C., regarding the education of exceptional students, the following definitions apply:

(a) Accommodations. Accommodations are changes that are made in how the student accesses information and demonstrates performance.

(b) Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device.

(c) Assistive technology service. Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. Training or technical assistance for a student with a disability or, if appropriate, that student's family; and

6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that student.

(d) Behavioral intervention plan (BIP). Behavioral intervention plan means a plan for a student which uses positive behavior interventions, supports and other strategies to address challenging behaviors and enables the student to learn socially appropriate and responsible behavior in school and/or educational settings.

(e) Charter school. Charter school means a school that is a public school created under Florida's charter school law, Section 1002.33, F.S.

(f) Child/student with a disability.

1. Student with a disability means a student, including a child aged three (3) through five (5), who has been evaluated in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., and determined to have a disability as defined under Rules 6A-6.03011 through 6A-6.03027, F.A.C., but does not include students who are gifted as

defined under Rules 6A-6.03019 through 6A-6.030191, F.A.C.; and

2. Who, by reason thereof, needs special education and related services. If it is determined, through an appropriate evaluation, that a student has a disability but only needs a related service and not special education, the student is not a student with a disability under Rules 6A-6.03011 through 6A-6.0361, F.A.C. If, however, the related service required by the student is considered special education rather than a related service under Rules 6A-6.03011 through 6A-6.0361, F.A.C., the student would be a student with a disability under this subsection.

(g) Consent. Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(h) Day; business day; school day. Day means calendar day unless otherwise indicated as business day or school day. Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day). School day means any day, including a partial day, that students are in attendance at school for instructional purposes. School day has the same meaning for all students in school, including students with and without disabilities.

(i) Early intervention. Early intervention means developmental services that are designed to meet the developmental needs of an infant or toddler with a disability in any one (1) or more of the following areas:

1. Physical development;
2. Cognitive development;
3. Communication development;
4. Social or emotional development; or
5. Adaptive development

(j) Educational plan (EP). EP is a plan that is developed for students identified solely as gifted and is developed pursuant to Rule 6A-6.030191, F.A.C.

(k) Elementary school. Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education as determined under Florida law.

(l) Evaluation. Evaluation means procedures used in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., to determine whether a student has a disability or is gifted and the nature and extent of the ESE that the student needs.

(m) Exceptional student. Exceptional student means any student who has been determined eligible for a special program in accordance with these rules. The term includes students who are gifted and students with disabilities as

defined in these rules.

(n) Exceptional student education (ESE). ESE means specially designed instruction and related services that are provided to meet the unique needs of exceptional students who meet the eligibility criteria described in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(o) Extended school year services. Extended school year services means special education and related services that are provided to a student with a disability beyond the normal school year of the school district; in accordance with the student's IEP; at no cost to the parents of the student; and meet the standards of the Florida Department of Education.

(p) Free appropriate public education (FAPE). FAPE means special education or specially designed instruction and related services for students ages three (3) through twenty-one (21) and for students who are gifted and in kindergarten through grade twelve that:

1. Are provided at public expense, under public supervision and direction, and without charge to the parent;

2. Meet the standards of the Florida Department of Education, including the requirements of Rules 6A-6.03011 through 6A-6.0361, F.A.C.;

3. Include an appropriate preschool, elementary school, or secondary school education in the State; and

4. Are provided in conformity with an individual educational plan (IEP) that meets the requirements of Rule 6A-6.03028, F.A.C., an educational plan (EP) for students who are gifted that meet the requirements of Rule 6A-6.030191, F.A.C., or an individual family support plan (IFSP) (if used as an IEP) for children ages three (3) through (5) in accordance with Rule 6A-6.03929, F.A.C.

(q) Functional behavioral assessment (FBA). A FBA is a systematic process for defining a student's specific behavior and determining the reason why (function or purpose) the behavior is occurring. The FBA process includes examination of the contextual variables (antecedents and consequences) of the behavior, environmental components, and other information related to the behavior. The purpose of conducting an FBA is to determine whether a behavioral intervention plan should be developed.

(r) General curriculum. The general curriculum is a curriculum or course of study based upon state educational standards that address the state and school district requirements for a standard diploma.

(s) Homeless student or youth. Homeless student or youth means an individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. Students and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

2. Students and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

3. Students and youths who are living in cars, parks,

public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

4. Migratory students who qualify as homeless for the purposes of Rules 6A-6.03011 through 6A-6.0361, F.A.C., because they are living in circumstances described in paragraphs (a) through (c) of this subsection.

(t) Include/including. Include or including means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(u) Individual educational plan (IEP). IEP means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(v) Individual educational plan (IEP) team. IEP team means a group of individuals as described in Rules 6A-6.03011 through 6A-6.0361, F.A.C., that is responsible for developing, reviewing, or revising an IEP for a student with a disability.

(w) Individualized family support plan (IFSP). IFSP is a written plan identifying the specific concerns and priorities of a family related to enhancing their child's development and the resources to provide early intervention services to an infant or toddler with a disability.

(x) Infant or toddler with a disability. Infant or toddler with a disability means a child under three (3) years of age who needs early intervention services because the child is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(y) Limited English proficient. Limited English proficient, when used in reference to an individual, means an individual who was not born in the United States and whose native language is a language other than English; an individual who comes from a home environment where a language other than English is spoken in the home; or an individual who is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language that would deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English.

(z) Modifications. Modifications are changes in what a student is expected to learn and may include changes to content, requirements, and expected level of mastery.

(aa) Native language. Native language, when used with respect to an individual who is limited English proficient, means the language normally used by that individual, or, in the case of a student, the language normally used by the parents of the student, and in all direct contact with a student (including evaluation of the student), the language normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such

as sign language, Braille, or oral communication).

(bb) Parent.

1. Parent means:

a. A biological or adoptive parent of a student;

b. A foster parent;

c. A guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student (but not the state if the student is a ward of the State);

d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare; or

e. A surrogate parent who has been appointed in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C.

2. The biological or adoptive parent, when attempting to act as the parent under this section and when more than one (1) party is qualified under paragraph (a) of this subsection to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the student. However, if a judicial decree or order identifies a specific person or persons under sub-subparagraphs (bb)1.a. through 1.d. of this subsection to act as the "parent" of a student or to make educational decisions on behalf of a student, then such person or persons shall be determined to be the "parent" for purposes of this subsection.

(cc) Personally identifiable. Personally identifiable means information that contains:

1. The name of the student, the student's parent, or other family member;

2. The address of the student

3. A personal identifier, such as the student's social security number or student number; or

4. A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

(dd) Related services.

1. General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

2. Exception; services that apply to students with surgically implanted devices, including cochlear implants. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. However, nothing in this section limits the right of a student with a surgically implanted

device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this subsection) that are determined by the IEP Team to be necessary for the student to receive FAPE; limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the student, including breathing, nutrition, or operation of other bodily functions, while the student is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly.

3. Individual related services terms defined. The terms used in this definition are defined as follows:

a. Audiology includes identification of students with hearing loss; determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; creation and administration of programs for prevention of hearing loss; counseling and guidance of students, parents, and teachers regarding hearing loss; and determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. Early identification and assessment of disabilities in students means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

d. Interpreting services include the following, when used with respect to students who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, such as communication access real-time translation (CART), C-Print, and TypeWell; and special interpreting services for students who are deaf-blind.

e. Medical services means services provided by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services.

f. Occupational therapy means services provided by a licensed occupational therapist or a licensed occupational therapy assistant pursuant to the provisions of Section 486.203, F.S., that include improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; improving ability to perform tasks for independent functioning if functions are impaired or lost; and preventing, through early intervention, initial or further impairment or loss of function.

g. Orientation and mobility services means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community and includes teaching students the following, as appropriate:

(I) Spatial and environmental concepts and use of

information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(II) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;

(III) To understand and use remaining vision and distance low vision aids; and

(IV) Other concepts, techniques, and tools.

h. Parent counseling and training means assisting parents in understanding the special needs of their student; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their student's IEP or IFSP.

i. Physical therapy means services provided by a qualified physical therapist. Physical therapy must be provided in accordance with Chapter 486, F.S.

j. Psychological services includes administering psychological and educational tests, and other assessment procedures; interpreting assessment results; obtaining, integrating, and interpreting information about student behavior and conditions relating to learning; consulting with other staff members in planning school programs to meet the special educational needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations; planning and managing a program of psychological services, including psychological counseling for students and parents; and assisting in developing positive behavioral intervention strategies.

k. Recreation includes assessment of leisure function; therapeutic recreation services; recreation programs in schools and community agencies; and leisure education.

l. Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

m. School health services and school nurse services means health services that are designed to enable a student with a disability to receive FAPE as described in the student's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

n. Social work services in schools includes preparing a social or developmental history on a student with a disability; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and assisting in developing positive behavioral intervention strategies.

o. Speech-language pathology services includes identification of students with speech or language impairments; diagnosis and appraisal of specific speech or language impairments; referral for medical or other professional attention necessary for the habilitation of speech or language impairments; provision of speech and language services for the habilitation or prevention of communicative impairments; and counseling and guidance of parents, students, and teachers regarding speech and language impairments.

p. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with a disability.

(ee) School district/local education agency. As used in Rules 6A-6.03011 through 6A-6.0361, F.A.C., school district means a public board of education or other public authority legally constituted within the State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in the State as an administrative agency for its public elementary schools or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(ff) Scientifically based research. Scientifically based research means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs, and includes research that:

1. Employs systematic, empirical methods that draw on observation or experiment;
2. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
3. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
4. Is evaluated using experimental or quasi-experimental designs;
5. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication; and
6. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(gg) Secondary school. Secondary school means a nonprofit institutional day or residential school, including a public charter school that provides secondary education, as determined under Florida law, except that it does not include any education beyond grade twelve (12).

(hh) Services plan. Services plan means a written statement that has been developed and implemented in accordance with Rule 6A-6.030281, F.A.C., describes the special education and related services that a school district will provide to a parentally-placed student with a disability enrolled in a private school who has been designated to

receive services, including the location of the services and any transportation necessary.

(ii) Secretary. Secretary means the U.S. Secretary of Education.

(jj) Specially designed instruction. Specially designed instruction means adapting, as appropriate to the needs of an eligible exceptional student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability or giftedness and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the school district that apply to all students.

(kk) Special education for students with disabilities.

1. Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability, including:

- a. Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- b. Instruction in physical education.

2. Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a) of this subsection:

- a. Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
- b. Travel training; and
- c. Vocational education.

3. Individual special education terms defined. The terms in this definition are defined as follows:

a. At no cost means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

b. Physical education means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term also includes special physical education, adapted physical education, movement education, and motor development.

c. Travel training means providing instruction, as appropriate, to students with significant cognitive disabilities, and any other students with disabilities who require this instruction, to enable them to develop an awareness of the environment in which they live and learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

d. Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

(ll) State education agency (SEA). SEA means the Florida Department of Education.

(mm) Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, or

other education-related settings, and in extracurricular and nonacademic settings, to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(nn) Transition services. Transition services means a coordinated set of activities for a student with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; and
  2. Is based on the individual student's needs, taking into account the student's strengths, preferences and interests; and
  3. Includes:
    - a. Instruction;
    - b. Related services;
  - c. Community experiences;
  - d. The development of employment and other post-school adult living objectives; and
  - e. If appropriate, acquisition of daily living skills and the provision of a functional vocational evaluation, and
4. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.

(oo) Ward of the State. Ward of the State means a student who is a foster child, a ward of the State or in the custody of a public child welfare agency. However, ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in this rule.

(2) ESE Policies and Procedures Document. For a school district to be eligible to receive state or federal funding for special education and related services for exceptional students, it shall: develop a written statement of policies and procedures for providing appropriate ESE in accordance with and as required by Rules 6A-6.03011 through 6A-6.0361, F.A.C., and as required by Section 1003.57(1)(d), F.S.; submit its written statement to the Bureau of Exceptional Education and Student Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400; and report the total number of exceptional students in the manner prescribed by the Department. Applicable state statutes, State Board of Education rules, and federal laws and regulations relating to the provision of ESE to exceptional students shall serve as criteria for the review and approval of the procedures documents. This procedures document is intended to provide district and school-based personnel, parents of exceptional students, and other interested persons information regarding the implementation of the State's and school district's policies regarding ESE programs. The procedures document shall be submitted in accordance with timelines required by the Department.

(3) ESE Administrator.

(a) Each school district shall designate a staff member to serve as administrator of exceptional student education who shall be responsible for the following:

1. Coordinating all school district services for exceptional students;
2. Ensuring that parents have been appropriately informed of their student's eligibility determination and their procedural safeguards in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C.
3. Informing, in writing, all appropriate school personnel, including the principal, of the student's eligibility for special education and related services; and
4. Ensuring the implementation of services to exceptional students.

(b) The ESE Administrator is authorized to delegate the responsibilities of this rule.

Specific Authority 1001.02(1)(2)(n), 1003.01(3), 1003.57, F.S. Law Implemented 1001.42(4)(l), 1003.01(3), 1002.38, 1001.03(8), 1003.57, 1011.62(1)(c) F.S. History—New 11-18-84, Amended 10-1-85, Formerly 6A-6.3411, Amended 12-14-93, 10-17-04, 12-22-08.

#### **6A-6.0361 Contractual Arrangements With Nonpublic Schools.**

(1) Each district school board shall provide special educational programs through contractual arrangements with approved nonpublic schools or community facilities when the board has determined that no special educational program offered by it, a cooperating district school board, or a state agency can adequately provide the educational program for the student.

(2) Each school district may provide special educational programs with approved nonpublic schools or community facilities through contractual arrangements under the following circumstances:

(a) For the provision of a non-residential interagency program for an exceptional student(s) which includes the provision of educational programming in accordance with the individual educational plan (IEP) developed for each student(s) placed in the program, or

(b) For the provision of the educational component of a residential placement for an exceptional student(s) when such a placement is made by another public agency for the primary purpose of addressing residential or other non-educational needs. The student's IEP shall reflect that the placement is not required in order for the student to benefit from special education which could otherwise be provided by the district during the day.

(3) Each district school board is responsible for assuring the proposed programs at the nonpublic school or community facility are appropriate to meet the educational needs of a student(s) placed through contractual agreements. This subsection shall not be construed to limit the responsibility of agencies other than the district school boards in the state from providing or paying some or all of the cost of a free appropriate public education to be provided handicapped children.

(4) Before a contract with a nonpublic school or community facility is executed by the district school board, the Department of Education shall assist the district school board in determining that the school or community facil-

ity meets the following criteria for the specific program provided to the student or group of students through the contract.

(a) The school or facility program is staffed by qualified personnel as defined in Rules 6A-1.0503 and 6A-4.002(1)(b), FAC., or appropriate licensing entities. Personnel in an out-of-state school or facility shall be certified or licensed in accordance with the standards established by the state in which the school or facility is located.

(b) For the appointment of persons as noncertificated instructional personnel, the governing body of the nonpublic school or community facility may adopt the policies required in Rule 6A-1.0502, FAC.

(c) The school's or facility's instructional school day and year shall be consistent with Sections 228.041(13) and (17), Florida Statutes, taking into account the number of school hours or school days provided the student by the district.

(d) The school or facility maintains current sanitation and health certificates and fire inspections for each appropriate building and will be open for inspection by appropriate authorities.

(e) The school or facility fully complies with the district's procedures to protect the confidentiality of student records and information and assures it will provide the parent, or the student if beyond age eighteen (18), the right of access, copies, amendments and hearings as specified in Rule 6A-1.0955, FAC.

(f) The school or facility will designate a staff member to be responsible for the administration of the provisions of the contract and for the supervision of the educational program provided to each student under the contract.

(g) The school or facility has written procedures for admission, dismissal and separation of students.

(h) The school or facility has written philosophy, curriculum and methodology for each special program to be provided to each student placed under a contract.

(i) The school or facility has a written description of the support services that are available and will be provided to each student placed under a contract in accordance with each students' IEP.

(j) The school or facility has written policies concerning: care of the student in emergencies; clinical and administrative records; personnel policies; staff duties; fee schedules; food services; and insurance coverage.

(k) The school district has determined that the school or facility is in compliance with the Office for Civil Rights requirements with respect to nondiscrimination on matters related to race, sex, handicap or age.

(l) The school or facility has filed with the Department of Education reports as prescribed in Section 229.808, Florida Statutes.

(m) For contractual agreements with facilities which are licensed or verified by the Department of Health and Rehabilitative Services, the requirements of Paragraphs (4)(d), (j) and (k) of this rule may be waived.

(5) Contents of contract. A contract between a district school board and a nonpublic school or community facility to provide educational programs for an exceptional student shall not extend beyond the school fiscal year and shall

include at least the following:

(a) Written assurance that the nonpublic school or community facility is staffed by qualified personnel as defined by Rules 6A-1.0503 and 6A-4.002(1)(b), FAC., or by an appropriate and identified licensing entity.

(b) A description of the educational program to be provided, the educational objectives to be met, and how they relate to the student's IEP.

(c) Provision for at least quarterly reports to appropriate school district personnel on the student's progress in meeting educational goals, and a summary evaluation prior to renewal of the contract.

(d) Provision for appropriate district personnel to review the program provided by the school or facility and to confer with the staff of the school or facility at reasonable times.

(e) Provision for reporting to appropriate school district personnel any nonattendance of the student.

(f) The method of determining charges and sharing costs with other agencies for the placements under the contract, including the projected total cost to the district.

(g) Identification of financial responsibility.

(h) Method of resolving interagency disputes. These may be initiated by district school boards to secure reimbursement from other agencies.

(i) A schedule for review of the program being provided the student through the contract.

(j) Provision for terminating the contract.

(k) Written assurance that the school or facility is in compliance with applicable provisions of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1974, and Section 504 of the Rehabilitation Act of 1973.

(6) When contracting with a nonpublic school or community facility, the school district shall be responsible for at least the following:

(a) Selecting an appropriate school or facility in consultation with the parent and other appropriate agency personnel.

(b) Providing for transportation.

(c) Maintaining a case file including progress reports and periodic evaluations of the student.

(d) Verifying that the student is a resident of the school district and is enrolled in, or has made application for admittance to, a district school educational program.

(e) Providing for the cost of the student's educational program as specified in the contract.

(f) Maintaining documentation of the qualifications of personnel in nonpublic schools or facilities as required in this rule or by the appropriate licensing entity.

(g) Providing an appropriate educational program for the student in the least restrictive environment based on an annual or more frequent review of the student's IEP.

(h) Maintaining copies of the IEPs in the district and providing copies of the IEPs of students who are in residential placements to the Department of Education.

(7) When an exceptional student is enrolled in a nonpublic school or community facility program under a contractual arrangement for providing a special educational program as provided herein, the student shall generate Florida Education Finance Program funds for the school

district in the appropriate cost categories as established in Section 236.081(1)(c), Florida Statutes, under the following conditions:

(a) The nonpublic school or community facility program meets the criteria established in Subsection (4) of this rule.

(b) The student is regularly attending the program, and the length of the school day and minimum number of days are in compliance with Florida Statutes.

(c) The student is appropriately classified as an exceptional student by the school district as required by law, State Board Rules, and criteria and procedures adopted by the district school board.

(d) An individual educational plan for the student has been developed as required by Rule 6A-6.0331(3), FAC.

(e) Full-time equivalent student membership for each student under a contractual arrangement is included in the school district's report.

(f) Annually and prior to the first report of full-time equivalent membership for a student in a nonpublic school or community facility program, a copy of the contracts signed by all participating parties shall be filed with the Department of Education, Division of Public Schools, Bureau of Education for Exceptional Students, The Florida Education Center, Tallahassee, Florida 32399.

(8) When a district contracts an education program for a group of students one (1) contract with student names or individual contracts shall be filed.

(9) When an exceptional student is offered an appropriate educational program by the school district and the parent waives this opportunity in favor of a program selected by the parent, the parent shall assume full financial responsibility for the student's education.

Specific Authority 229.053(1)(2)(i), 230.23(4)(m)(n) FS. Law Implemented 230.23(4)(m)2.(n), 236.081(1)(c) FS. History - New 6-17-74, Repromulgated 12-5-74, Amended 3-28-78, 8-8-78, 7-13-83, Formerly 6A-6.361, Amended 2-18-93. c.f. P.L. 94-142, Regulation 300.500 (20 USC 1401).

### **6A-6.052 Dropout Prevention Programs.**

(1) This rule references the rules which establish uniform guidelines for the submission, review and approval of comprehensive dropout prevention plans and the operation and evaluation of district dropout prevention programs. Dropout prevention programs differ from traditional programs in scheduling, instructional strategies, philosophy, curricula, learning activities and assessment. These positive comprehensive programs shall provide courses leading to the achievement of a standard or special high school diploma, and shall ensure that coordination of services and activities with other programs and agencies exists. Each school that establishes or continues a dropout prevention program at that school site shall reflect that program in the school improvement plan as required under Section 230.23(18), Florida Statutes.

(2) Listed below are the rules which comprise these guidelines:

(a) 6A-6.0521 Definitions and Requirements Which Apply to All Dropout Prevention Programs.

(b) 6A-6.05221 Student Support and Assistance Component.

(c) 6A-6.0523 Comprehensive Dropout Prevention

Plans.

(d) 6A-6.0524 Educational Alternatives Programs.

(e) 6A-6.0525 Teenage Parent Programs.

(f) 6A-6.0526 Substance Abuse Programs.

(g) 6A-6.0527 Disciplinary Programs.

(h) 6A-6.0528 Youth Services Programs.

(i) 6A-6.05291 Course Modification.

(j) 6A-6.05292 Common Objective Criteria and Evaluation of Dropout Prevention Programs.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 11-6-90, Amended 1-2-95.

### **6A-6.0521 Definitions and Requirements Which Apply to All Dropout Prevention Programs.**

(1) Definitions.

(a) Program category means the broad eligibility area appropriate for the delivery of dropout prevention services and includes: educational alternatives, teenage parents, substance abuse, disciplinary, and youth services programs.

(b) Individual program means a specific program within a program category which has an identifiable set of goals, objectives, and strategies. An individual program is designed for a particular student population and is implemented according to an approved plan. A district may have more than one (1) individual program within a program category.

(c) Positive program means that a program includes provision for student success, regular feedback on academic and behavioral progress, counseling and other student services, evaluation strategies and special educational strategies that differ from the traditional approach.

(d) A high school diploma or its equivalent means a diploma that meets all the requirements of Section 232.246(1)-(6) and (8)-(10); or 232.247, Florida Statutes.

(e) Standard dropout prevention class means the class in which all students are dropout prevention students.

(f) Course modification means lengthening or shortening time in class, alternative ways of measuring student performance, or the integration of curriculum frameworks or performance standards in an interdisciplinary approach.

(g) Student services personnel means guidance counselors, psychologists, social workers, visiting teachers, occupational placement specialists, health services providers, school administrators, district level dropout prevention coordinators, teachers, or parents.

(h) Emancipated minor means a minor who is released from the control of parents or guardians.

(i) Student support and assistance component means the delivery of academic assistance and coordination of support services to students enrolled full-time in a regular classroom who are eligible for educational alternative programs.

(j) In-school suspension means the temporary removal of a student from the student's regular school program and placement in an alternative program.

(k) Out-of-school suspension means the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal's

designee for a period not to exceed ten (10) school days.

(2) Requirements.

(a) Credits. Students served in all individual dropout prevention programs shall retain their right to earn the number and type of credits required for a standard or special diploma pursuant to Section 232.246(1)-(6) and (8)-(10); or 232.247, Florida Statutes.

(b) Coordination. All dropout prevention programs shall demonstrate coordination with appropriate agencies and other school programs that provide services to participating students in order to fully utilize human and financial resources. A part of this coordination shall be to ensure that procedures for postsecondary transition include child care referral, career counseling and academic and vocational training options. Appropriate agencies are defined as but are not limited to: the Department of Health and Rehabilitative Services, the Department of Juvenile Justice, the Department of Law Enforcement, the Department of Corrections, the Department of Labor, Employment and Security, and the district's local Pre-K Interagency Coordinating Council.

(c) Exceptional student education referral. An exceptional student referred for placement into a dropout prevention program shall have an individual educational plan review prior to that placement. A staff representative of the dropout prevention department in the district shall participate in that review. This requirement shall not apply to students served in youth services programs, agency based substance abuse programs, or in-school suspension programs.

(d) Limited English proficient students. Limited English proficient students, meeting the eligibility criteria for individual dropout prevention program categories, shall be considered for placement and enrollment in the appropriate dropout prevention program based on student needs. Limited English language proficiency shall not be used as a criterion for placement.

(e) Parent notification. Parents shall be notified annually in writing as specified in Section 230.2316(8), Florida Statutes, of their child's placement into any dropout prevention program and of their right to review any action relating to such placement. For educational alternatives of choice, which are voluntary and for which a student's parent or guardian has requested participation, such notification of administrative review shall not be required.

(f) Student records. Records of students participating in dropout prevention programs shall contain the following:

1. The students' dropout prevention program category.
2. Students' entry and exit dates in the dropout prevention program.
3. Documentation of the eligibility of each student and any required interventions that is dated prior to each placement in a dropout prevention program. Eligibility for multi-year programs shall be documented annually.
4. Number of instructional periods or hours of participation.
5. Evaluation of each student's academic and behavioral progress.
6. Annual written documentation of parent notification and evidence of involvement in the placement decision

prior to the date of the student's membership in a voluntary program. Parents shall be notified in writing within five (5) school days of the student's initial membership in an assigned program. Judicial and agency records shall satisfy this requirement in youth services programs and agency based substance abuse programs. Notification shall be in the parent's native language or the language most understood. For educational alternatives of choice, which are voluntary and for which a student's parent or guardian has requested participation, such notification of administrative review shall not be required.

7. Documentation of the academic assistance and support services provided students and teachers in student support and assistance components.

(g) Student eligibility for full-time equivalent (FTE). Eligible dropout prevention students may be reported for dropout prevention full-time equivalent student membership in the Florida Education Finance Program in the following dropout prevention settings:

1. Standard dropout prevention class, or
2. Student support and assistance component.

(h) Criteria for eligibility. Districts shall establish and implement eligibility criteria and procedures for each individual dropout prevention program.

(i) Certification. Any certification is appropriate for teachers in dropout prevention programs. Dropout prevention teachers shall be instructional staff members as defined in Rule 6A-1.0501, FAC.

(j) Students served in all individual dropout prevention programs shall retain their right to have access to a school day as defined by Section 228.041(13), Florida Statutes.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 6-19-91, 7-7-92, 9-5-93, 1-2-95.

### **6A-6.05221 Student Support and Assistance Component.**

Students served through this component shall generate dropout prevention funding for the classes in which they receive direct services or benefits due to the auxiliary services being provided to the student, teacher, or both. This component may be delivered through a course in which intended outcomes of the course framework include affective skills or remediation for students who have failed or are at risk of failing the High School Competency Test. Students may be reported for dropout prevention full-time equivalent (FTE) in the Florida Education Finance Program (FEFP) provided the following conditions are met:

(1) Student support and assistance plan. A student support and assistance plan shall be developed annually by a student services team for each dropout prevention student served through a student support and assistance component. The plan shall identify the students' academic and behavioral needs, annual goals, instructional objectives, educational and related services to be provided, evaluation procedures and schedule for determining on an annual basis progress toward meeting goals and instructional objectives. This plan shall be developed for each student reported for dropout prevention FTE while in membership in a non-dropout prevention class. The plan shall specify

the correlation between services and student performance for each period the student is reported for dropout prevention FTE.

(2) Criteria. Any student who meets the eligibility criteria for any dropout prevention program may be served through the student support and assistance component.

(3) Academic assistance and support services shall be provided and documented for each eligible student reported as dropout prevention FTE in this component. Those services for which districts shall submit dropout prevention FTE shall be specified in the student support and assistance plan and include at least one (1) of the following:

(a) Supplemental materials or alternative strategies provided to assist with course modification, behavior management, or alternative assessment.

(b) Instructional aides, case manager, student services personnel, or other support personnel assigned to assist eligible dropout prevention students and their teachers.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 1-2-95.

#### **6A-6.0523 Comprehensive Dropout Prevention Plans.**

(1) The local school board shall approve the dropout prevention plan and all subsequent amendments prior to reporting students for dropout prevention funding.

(2) Program categories. Each comprehensive plan shall include descriptions of individual dropout prevention programs for the following categories:

- (a) Educational alternative programs.
- (b) Teenage parent programs.
- (c) Substance abuse programs.
- (d) Disciplinary programs.
- (e) Youth services programs.

(3) Individual program plan. For individual programs listed in subsection (2) of this rule reporting dropout prevention full-time equivalent student membership (FTE), the following headings and subheadings shall be included in the comprehensive plan. For teenage parent programs, please refer to Rule 6A-6.0525, FAC., for specific requirements for plan format.

- (a) Agency coordination
- (b) Specific outcome objectives.
- (c) Evaluation.
- (d) Specific student eligibility criteria.
- (e) Student admission procedures.
- (f) Program operating procedures to include:
  1. curriculum,
  2. special strategies,
  3. equal access for eligible exceptional and limited English proficient students,
  4. student services,
  5. grade levels of students served,
  6. implementation sites.

(g) Total dropout prevention FTE student membership projected based on:

1. number and length of class periods,
2. average class size,
3. length of stay,
4. total number of students served.

(h) Personnel qualifications.

(i) Staff development activities.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0524 Educational Alternatives Programs.**

Educational alternatives programs are programs designed to serve students who are unmotivated or unsuccessful and shall have strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation is voluntary and means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has been retained;

(b) Student has failing grades or grades not commensurate with documented ability levels;

(c) Student has high absenteeism;

(d) Student has low achievement test scores;

(e) Student has performed successfully in an educational alternative program and wishes to remain enrolled in such programs; or

(f) According to district criteria, student exhibits behavior of a non-disciplinary nature which interferes with school success. This behavior shall be documented by student services personnel.

(3) Instructional periods. Instruction shall be provided for a minimum of two (2) instructional periods per day unless the student participates in a student support and assistance component rather than standard dropout prevention classes.

(4) Service delivery models. Educational alternatives programs may be offered at alternative sites, regular school campuses, or any location approved by the district school board as a school center. Educational alternatives programs may be offered full-time or part-time.

(5) Where the student in the program is a volunteer the notice of requirements in subsections (6) and (7) of this rule does not apply.

(6) Referral for evaluation of eligibility for exceptional student education. Any student assigned to an alternatives education program for unsuccessful or disinterested students, which is designed to return the student to the conventional educational program, shall be referred for an evaluation of eligibility for exceptional student educational services if not returned to the regular program after a specified period of time. Students identified according to Rule 6A-6.0524, FAC., as unsuccessful or disinterested shall be referred after a total of one hundred twenty (120) days of participation. Participation applicable to this provision must occur within any two (2) consecutive school semesters. These provisions shall not apply to students in other eligibility categories or to students in programs designed to offer a comprehensive multi year alternative to conventional public schools and for which student participation is entirely optional.

(7) Notification of parents. Upon the first placement in any school year of a student into any alternatives educa-

tion program for unsuccessful or disinterested students, the district shall give the student's parents written notification of their right to request an evaluation to determine eligibility for exceptional student education.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

### 6A-6.0525 Teenage Parent Programs.

Pregnant and parenting students and their children shall be entitled to participate in Teenage Parent (TAP) Programs designed to provide comprehensive educational and ancillary services to facilitate the parents' completion of high school. Students participating in teenage parent programs shall be eligible for all services afforded to students enrolled in programs pursuant to Section 230.2316, Florida Statutes, and Rules 6A-6.05221 and 6A-6.05291, FAC.

#### (1) Requirements.

(a) Credits. Students served in teenage parent programs shall retain the right to earn the number and type of credits required for a standard or special diploma pursuant to Sections 232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes.

(b) Exceptional student education referral. An exceptional student referred for enrollment in a teenage parent program shall have an individual educational plan review prior to enrollment. A staff representative of the teenage parent program in the district shall participate in the review.

(c) Limited English proficient students. Limited English proficient students meeting the eligibility criteria for the teenage parent program shall be considered for enrollment in the teenage parent program based on student needs.

(d) Parent notification. Parents shall be notified annually in writing as specified in Section 230.2316(8), Florida Statutes, of their child's enrollment in a teenage parent program and of their right to review any action relating to such enrollment.

(e) Student records. Records of students participating in a teenage parent program shall contain the following:

1. The students' entry and exit dates in the teenage parent program.
2. Documentation of the eligibility of each student and child prior to enrollment in a teenage parent program. Eligibility for multi-year programs shall be documented annually.
3. Number of instructional periods or hours of participation.
4. Evaluation of each student's academic and behavioral progress.
5. Annual written documentation of parent notification and involvement in the enrollment decision prior to the date of the student's participation in this voluntary program. Notification shall be in the parent's native language or in the language most understood.
6. Documentation of the academic assistance and support services provided students and teachers in student support and assistance components.

(f) Student eligibility for full-time equivalent (FTE). Eligible pregnant and parenting students shall be reported for teenage parent full-time equivalent student membership in the Florida Education Finance Program in the following

settings:

1. Standard teenage parent program in which all students are teenage parent program participants.

2. Student support and assistance component.

(g) Certification. Any certification is appropriate for teachers in teenage parent programs. Teenage parent program teachers shall be instructional staff members as defined in Rule 6A-1.0501, FAC.

(h) Students served in teenage parent programs shall retain their right to have access to a school day as defined by Section 228.041(13), Florida Statutes.

(2) Student eligibility. Districts shall implement student eligibility criteria and establish enrollment procedures for each teenage parent program.

(a) Voluntary participation. Participation in a teenage parent program is voluntary. Pregnant students, teenage parent students, and their children shall not be assigned to the program without annual parental or adult student permission.

(b) Criteria for eligibility.

1. Pregnant students.

2. Parenting students.

3. Children of parenting students and teenage parent program completers.

(c) Documentation of eligibility includes:

1. A county public health unit or private physician's certification of pregnancy;

2. A child's birth certificate, copy of application of birth certificate, hospital records, or a notarized affidavit of fatherhood signed by mother and father;

3. Evidence of parent's program completion and mentation of child's birth.

(3) Instructional periods. The program shall consist of instruction to participants full-time, part-time or on a variable schedule as needed to deliver the pregnancy- or parenting-related curriculum as specified in Section 230.23166(3)(b), Florida Statutes. Children of teenage parent students enrolled in teenage parent programs shall be served during the time that the parent student is earning credit towards a standard or special diploma pursuant to Sections 232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes.

(4) Service delivery models. Teenage parent programs may be offered at any location approved by the district school board as a school center.

(5) Ancillary services. School districts shall develop and implement procedures for the provision or coordination of the four ancillary services of child care, social services, health services and transportation for pregnant and parenting students who are currently enrolled or have completed a teenage parent program and their eligible children. Program completers are those students who have successfully completed a teenage parent program as described in the district's approved teenage parent program plan. Ancillary services are described as:

(a) Child care. Child care includes developmentally appropriate learning activities for the children of teenage parent program participants and completers during the hours when the child's teenage parent is earning credit pursuing a standard or special diploma as defined by Sections

232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes. Districts choosing to operate school-based child care for children birth through age three must be licensed by the Department of Health and Rehabilitative Services pursuant to Section 402.3025(1), Florida Statutes, or by the local licensing agent.

1. Districts may report children of teenage parent program participants and completers for teenage parent full-time equivalent student membership in the Florida Education Finance Program when the district provides or contracts for child care for the child and the following criteria are met:

a. The child is assigned a student identification number and all appropriate data for reporting is collected;

b. The parent is currently enrolled in a teenage parent program or is a program completer and enrolled in courses that meet the graduation requirements pursuant to Sections 232.246 (1)-(5) and (8)-(10) and 232.247, Florida Statutes;

c. The teenage parent has not graduated or legally withdrawn from school;

d. The child has not attained the age of five or is not eligible to enroll in kindergarten according to Section 232.045, Florida Statutes, whichever comes last;

e. The child is not served in a preschool program supported by other state or federal funds such as Prekindergarten Early Intervention, Head Start, or other subsidized child care.

(b) Health services. Health services include health and nutrition education and routine prenatal and postnatal health checkups during the time that the teenage parent student is reported for FTE in the teenage parent program. Routine check-ups for the children of teenage parent program participants and completers, including immunizations, shall be provided or coordinated during the time those children are reported for FTE in a teenage parent program.

(c) Social services. Social services include counseling assistance or case coordination related to economic assistance, during the time that the teenage parent students or their children are reported for FTE in a teenage parent program.

(d) Transportation. Transportation includes transportation for pregnant and parenting teenage parent program participants, program completers who have returned to their home schools, and their children regardless of distance from school pursuant to Section 236.083(1)(b), Florida Statutes. Transportation shall be provided for teenage parents and their children to and from home and the child care facility and for the teenage parents to and from the child care facility and the school, as required for the parent's educational activities in credit earning hours.

(6) The local school board shall approve the teenage parent program plan and all subsequent amendments prior to reporting students and their children for teenage parent program funding. The individual program description of the teenage parent program plan shall include:

(a) Agency coordination

(b) Specific outcome objectives.

(c) Evaluation.

(d) Specific student eligibility criteria.

(e) Student admission procedures.

(f) Program operating procedures to include:

1. Pregnancy- and parenting-related curriculum.

2. Special strategies.

3. Equal access for eligible exceptional and limited English proficient students.

4. Student services.

a. Description of child care services.

b. Description of health services.

c. Description of social services.

d. Description of transportation.

e. Other services which may be provided to participants.

5. Implementation sites.

6. Length of stay in program for students and their children.

7. Total teenage parent program FTE projected for students and their children.

(7) Program Evaluation. Each district receiving state funding for teenage parent programs through the Florida Education Finance Program shall submit an annual report to the Department documenting the extent to which each of the individual teenage parent programs has met the objectives established by the district. These objectives, developed by the district, are based upon the following required common objective criteria:

(a) Remaining in school or earning a high school diploma.

(b) Improving parenting skills.

(c) Giving birth to babies weighing 5.5 pounds or greater.

Specific Authority 229.053(1), 230.23166 FS. Law implemented 230.23166 FS. History - New 10-30-90, Amended 1-2-95, 3-20-96.

#### **6A-6.0526 Substance Abuse Programs.**

Substance abuse programs are programs designed to serve students who have a documented substance abuse problem and shall include strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC. The problem shall be a documented substance abuse of either the student, parent, or an immediate family member who is or was living in the same household. Such problems shall be documented in agency or school records.

(1) Voluntary or assigned participation. Participation in a substance abuse program is assigned but may be voluntary. Assigned participation means that the placement is required by the school district, courts, or other agencies. Voluntary participation means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has documented drug-related or alcohol-related problem; or

(b) Student has immediate family members who have documented drug-related or alcohol-related problems that adversely affect student's performance in school.

(3) Instructional periods. The instructional program shall be provided to participants a minimum of five (5) hours per day and may be offered on a variable schedule as needed to deliver the curriculum. The program shall

include instruction designed to deter substance abuse.

(4) Service delivery models. Substance abuse programs may be offered in a nonschool-based residential or day substance abuse treatment program facility, alternative sites, regular school campuses, or in any location approved by the district school board as a school center.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0527 Disciplinary Programs.**

Disciplinary programs are programs that are longer than ten (10) days in duration and are designed to serve students who are disruptive in the traditional school environment. However, in-school suspension programs may be less than ten (10) days in duration as specified in Section 230.2316(4)(c)3.5., Florida Statutes. These programs must place strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation in a disciplinary program is assigned but may be voluntary. Assigned participation means that the placement is required by the school district, courts, or other agencies. Voluntary participation means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has a history of disruptive behavior which interferes with his own or others' educational program(s) or results in frequent conflicts of a disruptive nature in or out of the classroom while the student is under the jurisdiction of the school;

(b) Student severely threatens the general welfare of others;

(c) Student requires assistance in behavior modification beyond that which can be provided in the traditional class; or

(d) Student has committed an offense which would warrant out-of-school suspension or expulsion.

(3) Instructional periods. The instructional program shall consist of instruction and counseling to participants full-time, part-time or on a variable schedule as needed to deliver the curriculum. Whether the program is full-time or part-time, all students should receive a minimum of five hours of instruction per day.

(4) Service delivery model. Disciplinary programs may be offered in in-school suspension, alternative sites, regular school campuses, or in any location approved by the district school board as a school center. The program may be planned and operated in collaboration with local law enforcement or other community agencies. If an in-school suspension model is used, the program is subject to all requirements specified in Section 230.2316(4)(c)3.5., Florida Statutes. Prior to assigning the student to a disciplinary program, the district shall attempt a variety of educational and student services unless the student has committed an offense which would warrant expulsion.

(5) Evaluation. The district shall determine procedures for evaluating students who are returning from detention or court adjudicated placement prior to assigning them to a

disciplinary program.

(6) Where the student in the program is a volunteer, the notice of requirements in subsections (7) and (8) of this rule does not apply.

(7) Referral for evaluation of eligibility for exceptional student education. Any student assigned to an alternative education program for disruptive students which is designed to return the student to the conventional educational program shall be referred for an evaluation of eligibility for exceptional student educational services if not returned to the regular program after a specified period of time. Students identified as disruptive according to Rule 6A-6.0524, FAC., shall be referred after a total of ninety (90) days of participation in an alternative education program. Participation applicable to this provision must occur within any two (2) consecutive school semesters. These provisions shall not apply to students in other eligibility categories or to students in programs designed to offer a comprehensive multiyear alternative to conventional public schools and for which student participation is entirely optional.

(8) Notification of parents. Upon the first placement in any school year of a student into any alternative education program for disruptive students, the district shall give the student's parents written notification of their right to request an evaluation to determine eligibility for exceptional student education.

(9) School annual report. In each school which has implemented a dropout prevention in-school suspension program, the school principal shall prepare an annual report provided to all members of the school advisory council which delineates:

(a) number of students in-school suspended,

(b) number of students out-of-school suspended,

(c) proportion of populations represented in in-school and out-of-school suspension groups, and

(d) quantification of the various bases for suspension.

(10) Program maintenance. Each district shall establish a process for determining in-school suspension program's effect on rate of expulsion and out-of-school suspension. After providing assistance, the district shall disapprove any school based in-school suspension programs that continually fail to directly reduce the school's expulsion or out-of-school suspension rate.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0528 Youth Services Programs.**

Youth services programs are programs designed to serve students who are assigned to a detention, commitment or rehabilitation program operated by a state or community-based agency or through the Department of Health and Rehabilitative Services or the Department of Juvenile Justice. These programs must place strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation in a youth services program is assigned. Assigned participation means that the placement is required by the school district, courts or other agencies pursuant to Chapter 39,

Laws of Florida.

(2) Criteria for eligibility.

(a) Student is neglected, delinquent or dependent; or.

(b) Student is assigned by the court to a detention, commitment or rehabilitation program. Commitment means any facility where the courts have adjudicated youths.

(3) Instructional periods. The instructional program shall be provided a minimum of five (5) hours per day and shall consist of intensive counseling, conflict resolution training, behavior modification, therapy, appropriate academic, vocational or exceptional curricula and related services under the supervision of a qualified teacher as specified in Rule 6A-1.0501, FAC. These educational services may be delivered at times of the day most appropriate for a youth services program. However, youth services programs of less than forty (40) days duration which take place in a park or wilderness setting may be limited to tutorial and vocational employability activities. The instructional program shall provide the opportunity for attainment of a high school diploma and support rehabilitation goals.

(4) Service delivery model. Programs may be offered in residential or nonresidential detention facilities, community-based agency facilities, facilities operated or contracted by the Department of Juvenile Justice or Department of Health and Rehabilitative Services, or commitment settings such as county, state or federal correctional institutions.

(5) School entry. Districts are encouraged to implement transition support systems to assist students returning to school from youth services programs.

(6) Cooperative agreements. To receive funding through the Florida Education Finance Program for the operation of youth services programs, school districts shall submit to the Department evidence of cooperative agreements with the Secretary of Juvenile Justice or the Secretary's designee for delinquent programs and Secretary of Health and Rehabilitative Services or the Secretary's designee for other programs. The cooperative agreement shall address, at a minimum, the following subjects: purpose, enabling legislation, definitions, inter/intra agency linkages, roles and responsibilities, administration, allocation of resources, interagency disputes, assessment, curriculum, instruction, planning, classroom management, attendance, certification, licensure, staff development, and transition.

Specific Authority 229.053(1), 230.2316(17) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.05281 Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs.**

School districts must provide instruction to prepare all students to demonstrate proficiency in the skills necessary for successful grade-to-grade progression and high school graduation. For students placed in Department of Juvenile Justice (DJJ) programs, collaboration between the DJJ, the Department of Education, school districts, and private providers is essential in order for these students to attain this goal and become productive members of the community.

(1) Student Eligibility.

(a) Students who do not attend a local public school due to their placement in a DJJ detention, commitment, day treatment, or early delinquency intervention program shall be provided high quality and effective educational programs by the local school district in which the DJJ facility is located or by a Juvenile Justice provider through a contract with the local school district.

(b) If any student in these DJJ facilities has filed an intent to terminate school enrollment, the local school district shall notify these students of the option of enrolling in a program to attain a general education diploma (GED).

(c) Exceptional Student Education. All students placed in a DJJ program, who meet the eligibility criteria for exceptional student education, shall be provided a free appropriate public education consistent with the requirements of Chapter 6A-6, F.A.C. Students with disabilities, as defined by Section 504 of the Rehabilitation Act, shall be provided the necessary aids and services.

(d) Limited English Proficient Students. All limited English proficient students placed in a DJJ program shall have equal access to entitled services, including assessment and appropriate instructional strategies consistent with the requirements of Chapter 6A-6, F.A.C.

(2) Student Records.

(a) Content. Each school district shall maintain educational records for students in DJJ programs as required by Section 1003.25, F.S. The content of these records shall be as defined in subsections 6A-1.0955(2)-(5) and 6A-1.0014(2), F.A.C., Section 1003.51, F.S., and paragraph (5) (d) of this rule.

(b) Transfer of Educational Records. Each school district shall transfer records of students entering or exiting DJJ programs as provided in paragraph 6A-1.0955(7) (b) and subsection 6A-1.0014(2), F.A.C. Beginning with the 2000-2001 school year, each school district shall provide these students' educational records no later than five (5) school days after the receipt of the request. Each school district shall make available a copy of the student's transcript record, including pertinent exceptional student education information, to designated DJJ staff for inclusion in the DJJ file when the student exits the program. DJJ staff shall provide this information to the receiving school district.

(c) Protection of Privacy. The requirements of Section 1002.22, F.S., and applicable rules of the State Board of Education apply to the Department of Juvenile Justice's maintenance and transfer of these records as described in paragraphs (2)(a) and (b) of this rule.

(3) Student Assessment.

(a) To ensure high quality and effective educational programs for youth in DJJ detention, commitment, day treatment, or early delinquency intervention programs, the school district shall provide for the review of the student's educational records and conduct assessments, consistent with the requirements of this subsection, in order to identify the students' functioning levels, provide appropriate educational programs, and report the learning gains of the student.

(b) All students in DJJ commitment, day treatment, or early delinquency intervention programs, who have not graduated from school, shall be assessed within ten (10)

school days of the student's commitment. The entry assessments shall include:

1. Academic measures that provide proficiency levels in:

- a. Reading,
- b. Mathematics,
- c. Writing.

2. Vocational interest and/or aptitude measures.

(c) For the students referenced in paragraph (3)(b) of this rule, exit assessments shall include, at a minimum, the academic measures.

(d) Students placed in a detention center shall be assessed only upon entry for academic measures.

(e) A common entry and exit academic assessment shall be selected as required by Section 1003.52, F.S., that is appropriate for the age, grade, and language proficiency, and program length of stay of the students and shall be non-discriminatory with respect to culture, disability, and socioeconomic status.

(f) All students in DJJ detention, commitment, day treatment, or early delinquency intervention programs shall also participate in the state and district-wide assessments required by Sections 1008.22, 1008.25, 1003.43, and 1003.438, F.S.

(g) The results of the academic measures, as required by paragraphs (3)(b)-(d) of this rule shall be reported in the format prescribed by Rule 6A-1.0014, F.A.C., to the Department of Education via the Automated Student Data System. The format for the reporting of the results of the academic measures shall include standard scores for each academic area assessed.

(h) Beginning in the 2000-2001 school year, the Department of Education shall include the results of these assessments in applicable statewide and school reports.

(4) Individual Academic Plans.

(a) An individual plan for educational progress shall be developed within twenty-two (22) calendar days of student entry to DJJ detention programs and within fifteen (15) school days of entry to DJJ commitment, day treatment, or early delinquency intervention programs. This plan shall be based upon the student's entry assessments and past educational history and must address the areas of academic, literacy, and life skills. The plan shall include:

1. Specific and individualized long-term goals and short-term instructional academic and vocational/technical objectives;
2. Remedial strategies and/or tutorial instruction;
3. Evaluation procedures;
4. A schedule for determining progress toward meeting the goals and instructional and vocational/technical objectives.

(b) Progress monitoring plans, required by Section 1008.25, F.S., or individual educational plans (IEPs) developed for eligible exceptional students, 504 plans developed for eligible students with disabilities, or individual plans developed for limited English proficient students may incorporate the requirements of subsections (4) and (5) of this rule.

(5) Transition Services.

(a) For all students in DJJ commitment, day treatment,

or early delinquency intervention programs, an individual transition plan based on the student's post-placement goals shall be developed cooperatively with the student, his/her parents, school district and/or contracted provider personnel and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.

(b) The transition plan must address, at a minimum

1. Academic re-entry goals
2. Career and employment goals,
3. The recommended educational placement for the student.

(c) Key personnel who must be involved in entry transition activities for students in juvenile justice programs shall include: appropriate personnel responsible for student assessment, a guidance counselor from the school district and/or program personnel who are responsible for providing guidance services under the supervision of the school district's guidance counselor, a registrar or a designee of the school district who has access to the district's MIS system, and instructional personnel.

(d) Exit portfolios shall be created for each student prior to exit from a commitment, day treatment, or early delinquency intervention program and provided to DJJ personnel for inclusion in the DJJ file. DJJ shall provide this information to the home school district. The exit portfolio shall include the records required by Sections 1003.51, F.S., and include at a minimum:

1. Transition plan;
  2. Results of district and state-wide assessments;
  3. Individual academic plan, 504 plan, and/or individual educational plan for exceptional students;
  4. Academic record or transcript; an
  5. Work and/or project samples.
- (6) Instructional Program and Academic Expectations.

(a) School Day and Year. The instructional program shall consist of 250 days of instruction, ten (10) of which may be used for teacher planning, distributed over twelve (12) months as required by Section 1003.01(11), F.S. Each school district shall collaborate with private providers and the DJJ, as appropriate, to develop a school calendar for these programs to be adopted by the local school board.

(b) Requirements. The instructional program shall meet the requirements of Sections 1003.42, 1003.43, 1003.438, 1003.52, 1008.23, and 1008.25, F.S., and include:

1. Curricular offerings, consistent with the Florida Course Code Directory and Instructional Personnel Assignments as adopted in Rule 6A-1.09441, F.A.C., that reflect the students' assessed educational needs and meet the students' needs as identified by the individual plan as required by paragraph (4)(a) of this rule. Students shall receive vocational/technical training, workplace readiness training, or career awareness and exploration instruction while in the juvenile justice program.

2. GED preparation shall meet GED course requirements specified in Rules 6A-6.0571 and 6A-6.021, F.A.C., and adult education course descriptions and/or the school district's approved GED/HSCT Exit Option must meet the requirements specified by the Department of Education.

3. Tutorial activities that are based on the students' assessed academic needs. Such activities shall be designed to assist students in advancing to their age appropriate grade level or to assist students in meeting their goals for reentry into the public school system, alternative schools, adult education, vocational/technical education, employment, or post secondary education.

4. Instruction shall be individualized to address the academic and vocational/technical goals and objectives that are outlined in each student's individual academic plan.

5. Instruction shall be delivered through a variety of instructional techniques to address students' academic levels and learning styles, including access to the Florida Virtual School as required in Section 1003.52(4), F.S.

(7) Qualifications and Procedures for Selection of Instructional Staff.

(a) The school district shall ensure that only qualified instructional staff members, consistent with the requirements of Rules 6A-1.0502 and 6A-1.0503, F.A.C., are employed to provide instruction to students in DJJ programs. Any use of non-certificated instructional staff must be approved by the school board.

(b) School districts shall recruit and train teachers who are interested, qualified, and experienced in educating students in DJJ programs as required by Section 1003.52(10), F.S. Teachers assigned to educational programs, operated by local school districts, in DJJ facilities shall be selected by the school district in consultation with the director of the DJJ facility, as required by Section 1003.52(10), F.S.

(c) The school district's substitute teacher pool shall also be available for these educational programs.

(d) Full-time teachers working in juvenile justice schools, whether employed by a district school board or a provider, shall be eligible for the critical teacher short-age tuition reimbursement program as defined by Section 1009.58, F.S., and other teacher recruitment and retention programs.

(8) Funding.

(a) To implement the Full-Time Equivalent (FTE) funding for students in DJJ programs based on direct instructional time:

1. Student attendance shall be taken once per class period or during each course reported for FTE purposes.
2. Time students spend participating in school activities such as field trips, performances, or receiving school-based services such as counseling may be counted as direct instructional time.

3. Certain interruptions to the education program, over which the teacher and student have no control, do not have to be deducted from the direct instructional time reported for FTE. These include:

- a. Fire drills;
- b. Lockdowns of the classroom or program for security purposes;
- c. Bomb scares;
- d. Court hearings; and
- e. Meetings students have with law enforcement personnel during school hours.

4. Direct instructional time shall not be counted for

students who choose not to attend class or who are not present at school due to illness, or other non-school related activity other than those listed above.

(b) As required by Sections 1003.51 and 1010.20, F.S., at least ninety (90) percent of the FEFP funds generated by students in DJJ programs must be spent on instructional costs for these students and one-hundred (100) percent of the formula-based categorical funds generated by these students must be spent on appropriate categoricals such as instructional materials and public school technology for these students.

(c) Compliance with the expenditure requirement in Section 1010.20, F.S., for programs provided directly by local school boards shall be verified by the Department of Education through the review of the district's cost report as required by Section 1010.20, F.S. If school districts enter into contracts with private providers for these educational programs, an accounting of the expenditures, as specified in paragraph (8)(b) of this rule shall be required by the local school board.

(9) Contracts with Private Providers.

(a) School districts may provide services directly or may enter into a contract with a private provider to provide educational services to these youth. Beginning in 2000-2001, such contracts with private providers shall address the responsibilities of the school district and the private provider for implementing the requirements of this rule. The private provider shall have, at a minimum:

1. Documented experience in providing high quality educational services or a detailed plan for providing high quality educational services that meets applicable state and federal requirements.

2. Sufficient financial stability and resources to hire an adequate number of certified or qualified instructional personnel.

(b) Prior to contracting with a private provider, the school district shall:

1. Review and consider the provider's past performance history, including the results of prior Quality Assurance Reviews.

2. Review the private provider's contract, if any, with DJJ for the care and custody of the youth in the commitment, detention, day treatment, or early delinquency intervention program to ensure that services and resources are coordinated and not duplicative.

(c) Contracts with private providers, as described above, shall be submitted to the Department of Education prior to the October FTE Reporting Survey for review to verify compliance with this rule.

(d) The provider(s) of workforce development programs in the district in which the DJJ facility is located shall be responsible for notifying the DJJ program of the requirements for enrollment and completion of these programs. The inclusion of DJJ students in the school district's workforce development program may be included in the contract referenced above and the cooperative agreement required by Section 1003.52, F.S.

(10) Interventions and Sanctions.

(a) If the educational program in a DJJ detention, commitment, day treatment, or early delinquency intervention

program has received an unsatisfactory rating on the educational component of the Quality Assurance Review, does not meet the minimum standards for a designated priority indicator of the Educational Quality Assurance Review, or has demonstrated noncompliance with state and federal requirements, the Department of Education shall initiate a series of interventions and graduated sanctions. Sanctions shall be initiated against programs that have not taken appropriate corrective actions within six months.

(b) Interventions shall include:

1. The provision of technical assistance to the program.

2. The development of a corrective action plan with verification of the implementation of the corrective actions within ninety (90) days.

3. A follow-up review of the educational program.

(c) Sanctions shall include:

1. Public release of the unsatisfactory findings, the interventions, and/or corrective actions proposed.

2. Assignment of a monitor, master, or management team to address identified deficiencies paid for by the local school board or private provider if included in the contract.

3. Reduction in payment or withholding of state and/or federal funds.

(d) If the sanctions proposed in paragraph (10)(c) of this rule are determined by the Department of Education and DJJ to be ineffective in correcting the deficiencies in the educational program and improving the quality of the program, the State Board of Education shall have the authority to require further actions, which shall include:

1. Requiring the school board to revoke the current contract with the private provider, if applicable;

2. Requiring the school board to contract with the private provider currently under contract with DJJ for the facility; or

3. Requiring the school board to transfer the responsibility and funding for the educational program to another school district.

(e) Each school district is responsible for ensuring that appropriate educational services are provided to students in the district's juvenile justice programs, regardless of whether the services are provided directly by the school district or through a contract with a private provider.

(11) Coordination. The cooperative agreement between the local school district and DJJ, required by Section 1003.51, F.S., shall be submitted to the Department of Education prior to the October, FTE Reporting Survey. The timelines and responsibilities, as required by Section 1013.53, F.S., for the notification by DJJ to the local school board of the siting of new facilities and the awarding of a contract for the construction or operation of such a facility shall be included in the agreement.

Specific Authority 1003.51 FS. Law Implemented 1003.51, 1003.52 FS. History—New 4-16-00, Amended 5-19-08.

#### **6A-6.05291 Course Modification.**

(1) Districts implementing approved comprehensive dropout prevention plans may, make modification to

courses listed in the Course Code Directory as adopted by reference in Rule 6A-1.09441, FAC. Modifications in courses may take one or more of the following forms:

(a) The amount of in-class instruction required for a student to earn a credit may be lengthened or shortened. Less than one hundred fifty (150) hours may be offered for a particular course if it is determined that the essential content can be learned in a shorter period of time pursuant to the requirements of Section 232.2462, Florida Statutes. Students may be allowed to spend more than one hundred fifty (150) hours in a course if it is determined that additional time is needed. Instructional time must be sufficient to allow students to master curriculum frameworks and district adopted performance standards.

(b) Alternative methods for assessing student mastery of performance standards may be utilized in dropout prevention programs.

(c) Interdisciplinary units of study may be developed by combining two (2) or more courses of study.

(2) Course modification proposals must be approved by the Commissioner prior to implementation of the modification. These modifications shall be approved for programs that generate dropout prevention full-time equivalent student membership only.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.05292 Common Objective Criteria and Evaluation of Dropout Prevention Programs.**

(1) Common objective criteria. The following are the required objective criteria for the specific outcome objectives developed by the districts. Districts may include additional objectives.

(a) Educational alternatives.

1. Staying in school or earning a high school diploma.

2. Academic improvement

3. Improved attendance.

4. Promotion.

(b) Teenage parent.

1. Staying in school or earning a high school diploma.

2. Continuation of academic program during placement in the teenage parent program.

3. Improved parenting skills.

4. Reduced repeat pregnancies.

5. Improved numbers of babies with birth weights at or above 5.5 pounds.

(c) Substance abuse.

1. Staying in school or earning a high school diploma.

2. Increased awareness of the hazards of substance abuse.

3. Continuation of academic program during placement in substance abuse program.

4. Decreased substance abuse.

(d) Disciplinary.

1. Staying in school or earning a high school diploma.

2. Decreased number of expulsions.

3. Decreased number of suspensions.

4. Decreased number of referrals.

5. Continuation of academic program during placement

in disciplinary program.

(e) Youth services.

1. Academic assessment.

2. Provision of appropriate educational services.

(2) Dropout prevention plan evaluation. Each district receiving state funding for dropout prevention programs through the Florida Education Finance Program shall submit an annual report and any interim reports required by the Legislature to the Department documenting the extent to which each of the individual dropout prevention programs has met the objectives established by the district. The district shall submit this evaluation as directed by the Department. Student outcomes shall be determined by comparing gains between preprogram baseline data and postprogram data. The data submitted in the annual report shall be collected by race, ethnicity and gender and include, but not be limited to performance data/student outcomes based on the state's minimum objective criteria.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.065 Instructional Components of Vocational Education.**

The comprehensive vocational education program shall be offered in components organized as follows:

(1) Instruction in grades 1 through 5 to familiarize pupils, including those considered to be disadvantaged or handicapped, with the world of work. Emphasis is placed on the relationship of the world of work to the ongoing instructional program.

(2) Instruction in grades 6 through 9 to pupils, including those considered to be disadvantaged or handicapped, in the following areas:

(a) To provide occupational exploratory experiences, including technology education and vocationally oriented home economics.

(b) To provide direct job related instruction for potential school leavers and others if essential in meeting their educational needs.

(c) To assist students in planning a complete four (4) year program of secondary studies.

(3) Instruction in grades nine (9) through twelve (12) to pupils, including those considered to be disadvantaged or handicapped, in the following areas:

(a) To provide direct job related instruction, including registered preapprenticeship training, for pupils planning to graduate and for pupils who may leave school before graduation.

(b) To provide technology education for those planning to enroll in an advanced or highly skilled vocational or technical program at the postsecondary level.

(c) To provide instruction in vocationally oriented home economics.

(4) Instruction, including registered preapprenticeship training, at the postsecondary level to provide youth under nineteen (19) years of age who have completed high school or left school before high school graduation, who are unemployed and underemployed, including those considered to be disadvantaged or handicapped, with or-

ganized programs of instruction to prepare them for gainful employment.

(5) Instruction at the postsecondary level to provide persons nineteen (19) years of age and older, who have completed high school or left school before high school graduation, including those considered to be disadvantaged or handicapped, with organized programs of instruction, leading to a certificate or an associate degree in a community college to prepare them for gainful employment.

(6) Instruction at the adult level to provide training or retraining to ensure stability or advancement in employment to adults who have already entered the labor market and who are employed or seeking employment, including those considered to be disadvantaged or handicapped or vocational oriented home economics designed to prepare adults for the role of homemaker, or to contribute to the employability of such adults in the dual role of homemaker and wage earner.

(7) To provide appropriate special vocational education programming for disadvantaged and handicapped students at appropriate levels of education.

(8) To provide activities for students in vocational student organizations as an integral part of the instruction offered in components (2), (3), (4) and (5) above. When vocational student organization activities are conferences, workshops or meetings which require participating students to travel outside their home school district, each such activity shall be approved by the Director, Division of Applied Technology and Adult Education, Department of Education, and placed annually on a published calendar. All vocational student organization conferences, workshops or meetings requiring students to travel outside their home district shall comply with the following rules:

(a) One-day meetings shall be scheduled on any weekday or Saturday. Registration shall not begin before 8:00 a.m. on the date of the meeting.

(b) Two-day meetings shall be held on Thursday, Friday or Saturday except that registration may begin anytime after 6:00 p.m. on the day prior to the opening meeting.

(c) Three-day meetings shall be held on Thursday, Friday, Saturday or Sunday, except that registration may begin anytime after 6:00 p.m. on the day prior to the opening meeting.

(d) No meeting shall be scheduled for more than three (3) days.

(e) No students shall attend a meeting unless the school administration has made arrangement for their chaperonage by responsible adults.

(f) Any secondary school which permits unchaperoned students to participate in a vocational youth organization meeting without reporting the case and its circumstances to the Director, Division of Applied Technology and Adult Education, Department of Education, shall not be approved by the Director to participate in approvable activities for a period of up to one (1) year.

(g) No meeting shall be scheduled unless the sponsor has made adequate arrangements for housing and meeting spaces.

(h) When an unsatisfactory written report of any meeting is filed by the hotel or a participant with the Director,

he or she may withhold further approval of meetings of the involved vocational student organization until, in his or her judgment, the situation has been resolved or will not reoccur.

(i) The Director may refuse a place on the published calendar of any vocational student organization activity if the organization fails to provide the information called for on the application form. Copies of the programs or agendas of the organization's meetings of the previous year are essential information which shall be filed with the application.

(j) The Division Director may assign dates other than those requested when, in the Director's opinion, the best interests of the entire vocational student organization program will be served.

(k) School principals or teachers shall not permit any student in their school or class to attend any vocational student organization meeting outside the student's home school district unless that meeting has been approved by the Director, Division of Applied Technology and Adult Education, Department of Education, and is sponsored or conducted by one (1) of the following organizations:

1. Cooperative Education Clubs of Florida.
2. Florida Association, Distributive Education Clubs of America.
3. Florida Association, Future Farmers of America.
4. Florida Association, Future Homemakers of America/Home Economics Related Occupations.
5. Florida Association of the Vocational Industrial Clubs of America.
6. Florida State Chapter, Future Business Leaders of America.
7. Florida State Chapter, Phi Beta Lambda.
8. Florida Association, Health Occupations Students of America.
9. Florida Technology Student Association.
10. Florida Association of Public Service Students.

Specific Authority 229.053, 233.068 FS. Law Implemented 228.041(22), 233.068 FS. History - New 8-18-71, Amended 9-17-72, 10-31-74, Repromulgated 12-5-74, Amended 5-4-76, Formerly 6A-6.65, Amended 8-12-91.

#### **6A-6.0713 Habitual Truancy: Inter-Agency Agreements.**

(1) Each district school board and the district office of the Department of Health and Rehabilitative Services shall develop a written agreement to include procedures to be followed by each of these agencies prior to filing with the circuit court a petition for dependency due to habitual truancy.

(2) The procedures shall include at least the following: All requirements of Section 232.19, Florida Statutes, identification of responsibilities for each agency, timeline for completing assigned responsibilities, and provisions for an annual review and necessary revisions of the procedures.

(3) The written agreement shall be approved by the local district administrator of the Department of Health and Rehabilitative Services or designee and the district school superintendent.

Specific Authority 229.053(1) FS., Section 18, Chapter 84-311, Laws of Florida. Law Implemented 39.01(33), 39.403, 232.19 FS. History - New 1-9-85, Formerly 6A-6.713.

#### **6A-6.0970 John M. McKay Scholarship for Students with Disabilities Program.**

The John M. McKay Scholarship for Students with Disabilities Program will be implemented as required by Section 1002.39, Florida Statutes, in an effective and equitable manner that will maintain the integrity of the program.

(1) Scholarship application procedure.

(a) To receive a McKay Scholarship the parent of a public school student must first request a scholarship by filing a notice of intent with the Department by fully completing an online application for a McKay Scholarship using the Department's website.

1. A school district, a private school, or the Department may assist a parent in filing the notice of intent.

2. A notice of intent must be filed before a student withdraws from public school and must include the student's: name, date of birth, current public school district, last attended public school, parent's name, telephone number, mailing address, and email address (if applicable).

3. Upon filing a notice of intent the parent shall receive immediate online filing confirmation including: a confirmation number, a notice of potential eligibility or ineligibility, and, if ineligible, reasons for the ineligibility and instructions on contacting the public school district to correct any errors in information that may have caused the ineligibility.

(b) After receipt of a notice of intent, the Department shall, in cooperation with the school district, determine the student's eligibility for a scholarship by verifying that the student:

1. Meets the prior school year in attendance definition in Section 1002.39(2)(a), Florida Statutes, or is exempt because he or she is a dependent child of a member of the United States Armed Forces who transferred to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders and such transfer occurred less than one (1) full academic year from the time the notice of intent was filed;

2. Filed a valid notice of intent; and

3. Meets one (1) of the following requirements:

a. Is a current public school student with a disability and has an individual education plan; or

b. Is not a current public school student but filed a notice of intent while a public school student, and was a student with a disability and individual education plan at the time he or she left the public school.

(2) Public school McKay Scholarship option. Pursuant to Section 1002.39(5), Florida Statutes, a student meeting the McKay eligibility requirements may choose to attend another public school in the student's school district or in an adjacent school district.

(a) The McKay Scholarship public school options available are determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

(b) Pursuant to Section 1002.39(4), Florida Statutes, the parent of a student receiving a McKay Scholarship to attend a private school may upon giving notice choose to exercise the public school McKay option.

1. Notice shall be no less than thirty (30) days prior to

entering the public school, unless agreed to by the school district.

2. Notice shall be given to the Department and the school district through use of the Department's website.

3. Public school options are still determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

4. After exercising the educational choice described in this paragraph, a student seeking to reenter a private school under the McKay Scholarship must re-establish initial eligibility requirements including the prior year public school attendance requirement.

(3) Term of McKay Scholarship. Pursuant to Section 1002.39(4)(a), Florida Statutes, a McKay Scholarship remains in effect until one of the following occurs. The student:

(a) Returns to a public school. A return to public school is the enrollment of a McKay Scholarship student in a public school or public school program.

1. For purposes of this paragraph, a public school or public school program is one in which students are reported for funding through the Florida Education Finance Program.

2. Notwithstanding subparagraph (3)(a)1., the following situations are not a return to public school:

a. Admission to a residential hospital for medical reasons.

b. Entry into a Department of Juvenile Justice detention center for a period of less than fifteen (15) days.

c. Entry into a public school for a period of less than thirty (30) days pursuant to placement by or while in the custody of the Department of Children and Family Services.

d. Completion of virtual school classes if limited to no more than two (2) courses per year.

e. Completion of dual enrollment or adult education courses that are not funded through the Florida Education Finance Program.

(b) Graduates from high school. The student may continue in the program until such time as he or she receives a GED, standard diploma, or the private school's equivalent. Certificates of completion or attendance do not constitute graduation from high school for purposes of this paragraph.

(c) Reaches the age of twenty-two (22). The student may complete the school year in which he or she reaches the age of twenty-two (22).

(4) Matrix of services.

(a) A matrix of services developed for purposes of the McKay Scholarship Program shall be consistent with the services described in the student's individual education plan at the time the student withdraws from the public school. The student's matrix of services may not be changed by the Department and may only be changed by the school district, pursuant to Section 1002.39(5)(b)2.c., Florida Statutes, to correct a technical, typographical, or calculation error.

(b) The process for development of a matrix of services for a student with a disability who is a dependent child of a member of the United States Armed Forces transferring from another state or country pursuant to the parent's

permanent change of station orders shall be expedited as follows:

1. Upon receipt of the parent's notice of intent, the Department shall provide the parent's contact information to the appropriate school district.

2. The school district shall contact the parent and arrange for the student's current individual education plan to be submitted to the school district to develop a matrix of services. The parent will be responsible for providing the school district with a copy of the student's current individual education plan.

3. The school district shall have fifteen (15) days from receipt of the student's individual education plan to develop a matrix of services and communicate that information to the Department.

4. If the district is unable to complete the matrix of services within the fifteen (15) days required by this rule, the calculation shall be made as provided for in Section 1002.39(10)(a)4., Florida Statutes, until such time as the matrix of services is completed.

5. A matrix of services developed pursuant to this paragraph shall be developed by school district personnel responsible for developing a matrix of services required by Section 1011.62(1)(e), Florida Statutes.

(5) Scholarship payments. The following provisions detail information related to scholarship payments including timeframes, eligibility, and Departmental procedures.

(a) Scholarship payments will be made on or before September 1, November 1, February 1, and April 1 of each year. For purposes of statutory deadlines associated with payment dates, the above listed dates shall be considered the official payment dates.

(b) The following payment periods are established for administration of the scholarship payments:

Payment	Payment Period
September 1	July 1 – September 30
November 1	October 1 – December 31
February 1	January 1 – February 28
April 1	March 1 – June 30

(c) The following requirements must be met to qualify for a scholarship payment:

1. The notice of intent, described in subsection (1) of this rule, must be filed sixty (60) days before the first scholarship payment. This is a one-time requirement that applies to scholarship students entering the program for the first time, and no payment can be earned until such time as the notice requirement has been met.

2. A student must have an enrollment date thirty (30) days before the first scholarship payment is made. The submission of the school and student fee schedules are required to establish the enrollment date and are completed using the Department's website. A student that changes private schools after meeting the enrollment date requirement may still qualify for payment for that payment period.

3. A student must not be enrolled in a public school or violate any of the prohibitions found in Section 1002.39(3), Florida Statutes.

4. The private school must verify each student's continued enrollment and attendance using the Department's website three (3) times per year before the November,

February, and April scholarship payments. Failure to verify a student's continued enrollment and attendance will result in a delayed payment until the next payment period. To receive payment at that time, the private school must verify student attendance for the delayed payment's payment period and, if the student is still enrolled in the program, for the current payment period.

(d) Private schools are responsible for the return of all scholarship funds to the Department that were received in error, including: for students that were not in attendance, or for services listed on a student's fee schedule that were not provided. If the Department identifies scholarship funds that should be returned, it shall send a letter via both regular and certified mail requesting the return of the funds. The letter shall state the reason the funds are being requested, the student or students involved, instructions on returning the funds, and the procedure to be followed if the private school believes that return of the funds is being requested in error or wishes to provide additional information related to the requested funds.

1. Private school shall respond to such letter within thirty (30) days by either returning the funds or detailing in writing why its retention of the funds is proper.

2. If the Department receives a letter detailing why the funds were properly retained, it shall determine whether the explanation is sufficient and thereafter alert the private school to any funds still due and a timeframe for the return of those funds. The response shall give the private school or parent at least twenty (20) additional days to repay the funds.

3. Failure to return the funds due back to the Department within the time period allotted shall result in the initiation of noncompliance procedures pursuant to the Commissioner's authority described in Section 1002.39(7), Florida Statutes, and this rule.

(e) Where a scholarship student attends multiple private schools or a private school and the public school in the same payment period, the right to retain the scholarship payment shall be given to the first private school the student attends for ten (10) or more school days during that payment period. If the student does not attend a private school for at least ten (10) days and attends a public school, then the funding generated, if any, shall be retained by the school district and no scholarship payment shall be generated.

(f) To ensure proper administration of scholarship funds, all claims by private schools for missed scholarship payments must be made within one (1) year of the date the payment was originally due.

(6) Private school participation. To participate in the John M. McKay Scholarship for Students with Disabilities Program, a school must:

(a) Register its intent to participate in the scholarship program with the Department using the Department's website;

(b) Complete the annual survey of private schools required by Section 1002.42(2), Florida Statutes, using the Department's website, and submit it to the Department in both an electronic format and by mail. The survey that is mailed to the Department must include a notarized state-

ment verifying that the private school owner has complied with the background check requirements of Section 1002.42(2)(c), Florida Statutes.

(c) Annually meet all scholarship compliance requirements for private schools pursuant to Rule 6A-6.03315, F.A.C.

(d) Continue to adhere to all statutory and rule requirements after determined eligible to participate in the program.

(7) Commissioner's duties. The Commissioner may deny, suspend, or revoke a private school's participation in the scholarship program pursuant to Section 1002.39(7), Florida Statutes.

(a) If the Commissioner issues a notice of noncompliance:

1. Private schools shall be given a reasonable period from the date of the notice, as determined by the Commissioner, to demonstrate compliance.

2. The notice shall state the reasons for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the Commissioner.

3. The private school's participation status shall be unaffected by the above notice of noncompliance process.

(b) If the Commissioner issues a notice of proposed action denying, suspending, or revoking a private school's participation:

1. The notice shall state the reasons for the action and specify the private school's right to appeal.

2. The private school's participation status shall be unaffected until the proposed action becomes final and all relevant appeals have expired.

(c) If the Commissioner immediately suspends payment of scholarship funds:

1. The Commissioner shall issue a notice of proposed action suspending payment of scholarship funds to the private school;

2. The notice shall state the reasons for the suspension and the rights the private school has to appeal; and

3. The private school's participation status will be adjusted so that it will be unable to receive payments or utilize the Department's website and its functionalities to participate in the scholarship program in any way.

(8) Complaint process. The following process is established to allow individuals to notify the Department of any violation by parents, private schools, or school districts of laws or rules related to scholarship program participation.

(a) Persons interested in filing a complaint should contact the Department through the toll-free hotline, established pursuant to Section 1002.39, Florida Statutes, or through the Department's website.

(b) An initial complaint shall include, at a minimum, the complainant's name, phone number, and address, and details of the situation.

(c) After receipt of the initial complaint, the Department shall offer to provide a formal complaint form to the complainant.

(d) To register a formal complaint, the complainant must complete the formal complaint form, sign it, and mail or fax it to the Department within thirty (30) days of making

the initial complaint.

(e) Upon receipt of a formal complaint, the Department shall review the complaint for legal sufficiency. If the complaint is legally sufficient, the Department shall conduct an inquiry, as described in subsection (9) of this rule, or refer the matter to the appropriate agency for investigation. If the complaint is not legally sufficient, the Department may close the complaint.

(f) The Department shall notify the complainant of the final result of all formal complaints.

(9) Inquiry process. If an inquiry is made as to the conduct of an individual or entity participating in the program:

(a) A letter of inquiry will be delivered using regular and certified mail that alerts the individual or entity to the inquiry and provides the opportunity to respond. The letter of inquiry shall detail any alleged violations of program rules or law, the response required, any documentation requested, and the deadline for responding to the Department.

(b) Failure to respond to a letter of inquiry in a timely manner by:

1. A parent, then the Department shall notify the parent that the parent's failure to respond to the letter of inquiry is deemed to be an acceptance of the allegations made in the formal complaint and may affect student eligibility.

2. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.39(7), Florida Statutes, and this rule.

3. A school district, then a formal notice will be sent from the Commissioner to the district's Superintendent stating that failure to respond within five (5) working days shall be deemed to be an admission of the stated violation or allegation.

(c) The Department shall review the response to the letter of inquiry and:

1. If satisfied that no violation of laws or rules related to scholarship program participation occurred, notify the parent, private school, or school district and complainant that the inquiry will be closed.

2. If more information is needed, request additional information related to the inquiry from the complainant, parent, private school, or school district as appropriate.

3. If a violation of laws or rules related to scholarship program participation has been committed by:

a. A parent, then the Department shall notify the parent of any violation of laws or rules committed and any effect it will have on student eligibility.

b. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.39(7), Florida Statutes, and this rule.

c. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, student, or private school as appropriate.

(d) The Department may at any point refer an inquiry to another appropriate agency for investigation.

(e) Notwithstanding any other provision of this rule, the Commissioner may at any point during the inquiry process

exercise the authority given under Section 1002.39(7), Florida Statutes, to immediately suspend payments to a private school if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of students or suspected fraudulent activity on the part of the private school.

Specific Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History--New 1-18-07.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-7

### Special Programs II

#### **6A-7.0335 Regional Centers for Implementing Services to Individuals with Autism, Pervasive Developmental Disorders, Autistic-like Disabilities, Dual Sensory Impairments, or Sensory Impairment with Other Disabling Conditions.**

(1) Eligibility. Individuals of all ages with significant communication or significant behavior problems are eligible for regional center services if an individual has been diagnosed as having autism, pervasive developmental disorder, autistic-like disability, dual sensory impairment, or sensory impairment with other disabling conditions. The centers shall verify the disabling condition(s) of the individual. Such verification may consist of the most recent information from state and local agencies and individuals, and may include, but not be limited to, medical and psychological records. However, the center shall not defer services to the individual and family while awaiting receipt of such information.

(2) Direct services. The primary focus of the regional centers is to provide individualized, direct assistance to individuals and their families who are eligible under this rule. These services shall include nonresidential assistance; outreach programs to school districts, families, and agencies; dissemination of referral and resource information; and professional training materials and programs.

(3) Regional center plan. Each center shall prepare and submit, for approval by the Department, a project plan for services to include:

(a) Project description. A description of the project shall include the following components:

1. A staffing plan with, as a minimum, individuals with expertise in autism or autistic-like behaviors and individuals with expertise in sensory impairments:

2. A direct service plan that shall address individual and family assistance in the home, community, and school. A regional center shall not supplant responsibilities of other state and local agencies. Each school district shall be responsible for providing appropriate educational services for clients of a center who are school age;

3. A technical assistance and consultation services plan for providing specific intervention and assistance, utilizing all available community resources, to clients of the regional center, the clients' family, school districts, and other service agencies and individuals as appropriate;

4. A professional training program plan that includes developing, providing, and evaluating preservice and inservice training in state-of-the-art practices for personnel who work with the populations served by the regional centers and their families; and

5. A public education plan to increase awareness of the public about autism, autistic-like disabilities of communication and behavior, pervasive developmental disorders, dual sensory impairments, and sensory impairments with other handicapping conditions.

(b) Coordination of services. The regional center plan shall include a description of coordination of services with other regional centers, other state agencies, school dis-

tricts, private providers, and other entities, as appropriate. The plan shall also include a description of how the center will interface with the medical community to ensure the appropriate use of medical consultation in the provision of services.

(c) Coordination with constituency boards. Each regional center plan shall include a description of its working relationship with and support of the constituency board, as defined in Section 393.0697, Florida Statutes. It shall be the responsibility of the center director to communicate regularly with the chair of the constituency board on issues affecting the operation and delivery of services by the center.

(d) Review of plan. Each center director shall submit the regional center plan to the appropriate constituency board for review and comment.

(4) Referral. Referrals are requests for assistance (e.g., training, consultation) for a particular individual. Referrals may be made by any person (e.g., family member; teacher; administrator; appropriate persons in the Departments of Education, Health and Rehabilitative Services, Labor and Employment Security; providers of services for those departments; or the identified individual) who is responsible for or involved with the individual. In order for the centers to provide direct assistance, including program planning and direct consultation, the individual or the individual's family or legal guardian must provide a request or consent for such assistance. A preliminary screening will be conducted to determine eligibility. If the individual referred meets the eligibility criteria, assistance will be provided by the regional center within available resources. If the individual referred does not meet the eligibility criteria, the referred individual will be matched with alternative services. The centers will respond to three (3) basic referrals and requests within available resources:

(a) Crisis. Referrals for immediate assistance for individuals with severe problematic behaviors and potentially dangerous or abusive situations.

(b) Seeking resources and information. Referrals made by families, educators, and staff or providers to state departments and other agencies who are involved in identifying all avenues of support and assistance available to them. This may include specific identified areas of concern that are other than a crisis situation.

(c) Specific requests for training, assistance, or materials. Requests for specific assistance from a family or family member, state agency, school district, or a private provider requesting inservice training for a particular topic area.

(5) Constituency boards. Each regional center shall have a constituency board of no fewer than six (6) members who are selected by each university president from a list that has been developed by the Autism Society of Florida and other relevant constituency groups that represent individuals as defined in Subsection (1) of this rule. This board shall meet quarterly with the center staff to provide advice on policies, priorities, and activities.

Each board shall elect a chairperson and secretary. It shall be the responsibility of the chairperson to communicate regularly with the regional center director on pertinent issues affecting the operation and delivery of services by the center. Each board member shall be appointed for a three (3) year term, with two (2) members being appointed each year. The initial term rotation will be determined by lot, with one-third of the members serving for one (1) year, one-third of the members serving for two (2) years, and one-third of the members serving for three (3) years. A board member may serve for only two (2) consecutive full terms, but shall continue to serve until his/her successor is named. Whenever possible, the appointment of a new member shall be from the same constituency group as the member retiring from the board. The procedure for appointing an individual to fill an unexpired term is the same as that used to make regular appointments. Members of the constituency boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in Section 112.061, Florida Statutes. Payment may be authorized for pre-approved expenses such as mailing, telephone, or photocopying. Chairs of the constituency boards shall meet twice a year to coordinate board activities. One of these meetings shall be with regional center staff to plan the annual conference and the other meeting shall be at the conference. Each constituency board, after review and comment from regional center staff, shall submit by September 1 to the respective university president and the Department an annual report that evaluates the activities and accomplishments of its center during the preceding year.

(6) Annual conference. To promote statewide planning and coordination, an annual conference shall be held for staff from each regional center and representatives from each center's constituency board. This conference shall include networking opportunities, cross-training, and feedback among staff and constituency board representatives. The conference shall be open to the public.

(7) Census. Each regional center will be responsible for gathering information for the statewide census of individuals who are eligible for services of these centers. Census information will include: county, date of birth, sex, disabling conditions which make the individual eligible for center services, and other information determined by the centers as necessary to maintain an accurate census.

(8) Reporting. Each regional center, after review and comment by the appropriate constituency board, shall submit to the Department by September 1 an annual report which shall include the following:

(a) The number of individuals served, the type of disability served, and the type and extent of services offered to the individuals;

(b) The type of training offered to regional center staff, constituency board members, and individuals and the total number by category of individuals trained.

(9) Budget. Each regional center staff shall submit to its university and the Department an annual budget which has been reviewed by its constituency board. The budget shall reflect the service component of the centers. Line items for travel shall represent necessary travel to pro-

vide or coordinate services and training. Equipment and research budget items shall be limited to those amounts necessary to support the service component of the center.

Specific Authority 229.053(1), 393.0697(5) FS. Law Implemented 393.0697 FS. History—New 10-18-94.

#### **6A-7.099 Challenge Grant Program for the Gifted.**

(1) The purpose of the Challenge Grant Program for the Gifted shall be to encourage public schools to implement exemplary programs which challenge gifted students.

(2) As provided by Section 236.1225(2), Florida Statutes, the Commissioner shall cooperate and consult with associations and organizations concerned with the education of the gifted in administering this grant program. Such associations and organizations shall include at least the Florida Association for the Gifted and the Florida Federation Council for Exceptional Children.

(3) Annually the Commissioner shall invite district school boards to submit a program proposal consistent with the requirements of Section 236.1225, Florida Statutes. The proposals shall be judged by the following criteria:

(a) The proposed program will improve the quality of existing programs;

(b) The proposed program will initiate a model or demonstration program; or

(c) The proposed program will expand student participation in existing programs.

(4) Each project funded shall, as provided by Section 236.1225(3)(d), Florida Statutes, contain provisions for the submission of an evaluation of the program and shall meet all requirements of law.

Specific Authority 229.053(1), 230.23(4)(m), 236.1225 FS. Law Implemented 236.1225 FS. History - New 1-6-83, Amended 5-3-83, Formerly 6A-7.99.

Florida State Board of Education Rules Pertaining to Special Programs  
Chapter 6A-20  
Student Financial Assistance

**6A-20.012 Critical Teacher Shortage Tuition Reimbursement Program.**

(1) To receive aid, teachers shall meet the provisions of Section 1009.58, F.S., and Rule 6A-20.001, F.A.C., and:

(a) Submit, Form FFAA-2, Florida Financial Aid Application for Teachers, Form CPSI-1, Postsecondary Institution Certification, and Form CEMP-1, Employment Certification Form by September 15. Forms FFAA-2, CPSI-1, and CEMP-1 are hereby incorporated by reference and made a part of this rule to become effective with the effective date of this rule. A copy of Forms FFAA-2, CPSI-1, and CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Have as a minimum a valid temporary Florida teacher's certificate or license.

(c) Intend to gain or renew certification, or to earn a graduate degree, in a designated critical teacher shortage area.

(d) Not receive reimbursement from other sources sufficient to pay the full cost of tuition and registration fees for a course(s) for which reimbursement is being sought.

(e) Not owe a repayment of a grant received under the Pell Grant, Supplemental Educational Opportunity Grant, or any state scholarship or grant program.

(f) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay the loan have been made.

(2) By January 1 of each year, the Department shall distribute to Florida publicly funded school district superintendents applications and a description of the program and application process utilizing the State Student Financial Aid Database.

(3) Publicly funded schools shall be responsible for providing teachers with information regarding the Tuition Reimbursement Program and the necessary forms.

(4) An applicant may receive aid for a maximum of nine (9) credit hours during a period beginning with the fall term and ending with the close of the summer term.

(5) Award procedures. The Department shall determine eligibility and may prorate awards if funds are not available to make full awards.

(6) Payment of awards. The Department shall notify applicants of their award eligibility and shall provide for the delivery of funds to eligible applicants on a funds available basis.

Specific Authority 1009.58(2) FS. Law Implemented 1009.58 FS. History—New 5-24-84, Formerly 6A-7.163, 6A-7.0163, Amended 12-25-86, 3-22-89, 3-6-94, 10-15-02, 9-22-08.

**6A-20.013 Critical Teacher Shortage Student Loan Forgiveness Program.**

(1) Eligibility criteria for initial awards. To receive aid, an initial applicant shall meet the provisions of Section 1009.59, F.S., and shall:

(a) Have, as a minimum in the first year of application, a valid temporary Florida Educator's Certificate or license which indicates certification or licensure with an issue date prior to the beginning of the school year. The Department of Education may accept a certificate issue date during the first year of teaching providing it validates the first academic year of employment in the critical teacher shortage subject area in which the teacher is employed;

(b) Have taught a full school year, as defined in Section 1003.02(1)(g), F.S., in a Florida publicly-funded school or developmental research school, in a designated critical teacher shortage subject area. If an otherwise eligible applicant completes eligible teaching service for at least ninety (90) days during a school year and does not complete one (1) full year of teaching service, the Department may provide up to one-half of a full award;

(c) Not owe a repayment of a state or federal student grant or scholarship unless satisfactory arrangements have been made;

(d) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay the loan have been made;

(e) Not have received a Paul Douglas Teacher Scholarship, Critical Teacher Shortage Scholarship Loan, "Chap-  
pie" James Most Promising Teacher Scholarship Loan, Masters' Fellowship Loan Program for Teachers, or Critical Teacher Shortage Forgivable Loan under the Florida Teacher Scholarship and Forgivable Loan Program; and

(f) Submit by July 15:

1. After the end of the academic year in which the applicant taught for the first time as a full-time certified teacher in a critical teacher shortage subject area for at least ninety (90) days, Form FFAA-2, Florida Financial Aid Application for Teacher Program, as incorporated by reference in Rule 6A-20.012, F.A.C.,

2. An academic transcript from each postsecondary educational institution which the applicant attended in order to complete an education program,

3. Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, F.A.C., and

4. Form CLON-1, Loan Certification, which is hereby incorporated by reference in this rule to become effective with the effective date of this rule. A copy of Form FFAA-2, Form CEMP-1, and Form CLON-1 may be obtained by contacting the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(2) Eligibility criteria for renewal awards. Eligibility for

renewal shall be evaluated at the end of the renewal year of teaching. As a condition for renewal, a teacher shall meet the provisions of Section 1009.59, F.S., and shall:

(a) Have, each academic year, a valid Florida Educator's Certificate or license which indicates certification or licensure in the subject area for which an initial award was made or in a current critical teacher shortage subject area for the academic year for which funds are being requested;

(b) Have taught a full school year in a Florida publicly-funded school, or developmental research school, in the subject area for which the original loan repayment was made or in a current critical teacher shortage area in which the applicant is certified. If an otherwise eligible renewal applicant completes eligible teaching service for at least ninety (90) days and does not complete a full year of teaching service, the Department may provide up to one-half of a full award;

(c) Not owe a repayment of a grant received under the Pell Grant, Supplemental Educational Opportunity Grant, or any state grant or scholarship program;

(d) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay have been made;

(e) Not have received a Paul Douglas Teacher Scholarship, Critical Teacher Shortage Scholarship Loan, "Chap- pie" James Most Promising Teacher Scholarship Loan, Masters' Fellowship Loan Program for Teachers, or Critical Teacher Shortage Forgivable Loan under the Florida Teacher Scholarship and Forgivable Loan Program; and

(f) Submit by July 15 of each academic year, Form CEMP-1, Employment Certification.

(3) The Department shall distribute to Florida publicly funded school district superintendents applications and a description of the program and application process utilizing the State Student Financial Aid Database.

(4) Publicly funded schools shall be responsible for providing teachers with information regarding the Tuition Reimbursement Program and the necessary forms.

(5) Amount of award. The annual amount of student loan repayment shall be a maximum of twenty five hundred (2,500) dollars for undergraduate loans and a maximum of five thousand (5,000) dollars for graduate loans for up to a combined total of five thousand (5,000) dollars annually. The amount of the award is based on the principal balance outstanding on the applicant's loan as of the June 30 prior to the beginning date of teaching as a certified teacher in a critical teacher shortage subject area.

(6) Maximum terms of eligibility. A teacher shall be eligible to receive student loan forgiveness for either a maximum of four (4) academic years or a total repayment of ten thousand (10,000) dollars, whichever comes first.

(7) Award procedures. The Department shall determine eligibility and make awards. Awards may be prorated if funds are not available to make full awards. Renewal applicants will be given priority upon timely receipt of all required forms and documentation. The Department shall notify applicants of their award eligibility.

(8) Payment of awards. The Department shall provide for the delivery of funds to teachers by issuing warrants made payable to the teachers and the lending institutions for all loans held by lending institutions. The Department will forward the warrants to the teachers for submission to the lending institutions; however, a teacher who submits documentation from all lenders that all principal balances which were due as of the June 30 prior to the beginning date of teaching, or additional educational loans accrued prior to the beginning date of teaching, pursuant to subparagraph (1)(f)1. of this rule, have been paid by the teacher may have the warrant made payable directly to the teacher. If the loan was a National Direct Student Loan, National Defense Loan, or Perkins Loan, each lending institution must also indicate that the repayment was not a result of teaching service cancellation.

Specific Authority 1001.02(1), 1009.59(4) FS. Law Implemented 1009.59 FS. History--New 5-24-84, Formerly 6A-7.162, 6A-7.0162, Amended 12-25-86, 3-22-89, 5-16-90, 2-15-95, 10-15-02, 9-22-08.

#### **6A-20.025 Grants for Teachers for Special Training in Exceptional Student Education.**

(1) Eligibility criteria. To be eligible to receive a tuition reimbursement grant for special training in exceptional student education, the applicant shall:

(a) Hold a full-time contract to teach in a district school system, a state operated or a state supported program, or an agency or organization under contract with the Department.

(b) Hold a valid Florida educator's certificate that does not reflect an exceptional student education coverage or endorsement which is appropriate for the assignment.

(c) Complete specialization course(s) needed for certification in the area in which he or she is assigned to teach with a minimum grade of 3.0 on a 4.0 scale.

(d) Submit completed Form FFAA-2, Florida Financial Aid application for Teachers, Form CPSI-1, Postsecondary Institution Certification, and Form CEMP-1, Employment Certification as incorporated by reference in Rule 6A-20.012, FAC. These forms may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(2) Review agency. Pending review of the application by the Department of Education, the applicant shall receive notification of award eligibility.

(3) Reimbursement. Eligible applicants may receive tuition reimbursement not to exceed nine (9) semester hours, or the equivalent quarter hours, per term. Reimbursement shall be at a rate consistent with that established for programs authorized by Section 240.4064, Florida Statutes. No special fees charged by the universities or colleges shall be included in the payment to a recipient nor shall payments be made if tuition has been paid, waived or assumed, in full, through other sources. For each fiscal year, grants are awarded to the extent of funds appropriated for this program. Awards may be prorated if funds are not available to make full awards.

(4) Fiscal agency. The Office of Student Financial Assistance, Department of Education, upon receipt of eligible

applicants, shall provide for payment of eligible applicants to the extent of funds appropriated for the program.

Specific Authority 229.053(1), 240.405(4) F.S. Law Implemented 240.405 F.S. History - New 4-13-87, Amended 3-6-94, 10-15-02.

#### **6A-20.040 Occupational Therapist or Physical Therapist Tuition Reimbursement Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) Eligibility requirements. To receive aid, therapists shall meet the provisions of Sections 240.6071 and 240.6075, Florida Statutes, and Rules 6A-20.001 and 6A-20.0371 FAC., and:

(a) Submit by September 15, Form FFAA-3, Florida Financial Aid Application for Occupational/Physical Therapists, which is hereby incorporated by reference in this rule to become effective October 2002, Form CPSI-1, Postsecondary Certification, and Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Forms FFAA-3, CPSI-1, and CEMP-1, may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Have, at minimum, a valid temporary Florida permit as a therapist from the Department of Health.

(c) Be employed as a therapist full-time in a Florida publicly-funded school as defined in Section 228.041, Florida Statutes, and have been employed as such for a minimum of three (3) years.

(d) Have completed a course intended to improve professional skills or knowledge at a state university or community college, or any Florida college or university which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(e) Not receive reimbursement from other sources sufficient to pay the full cost of tuition and registration fees for a course(s) for which reimbursement is being sought.

(f) Earn a minimum grade of 3.0 on a 4.0 scale, or its equivalent, in course for which tuition reimbursement is sought.

(g) Not owe a repayment of a federal grant or any state grant or scholarship program unless satisfactory repayment arrangements have been made.

(h) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan programs, unless satisfactory repayment arrangements have been made.

(i) Not have received a Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan or participated in the Critical Occupational Therapist or Physical Therapist Shortage Loan Forgiveness Program.

(3) Application distribution. By October 15 of each year, the Department shall distribute a description of the program and the application process utilizing the State Student Financial Aid Database to Florida publicly-funded

school district superintendents. The publicly-funded schools shall be responsible for providing eligible employees with information regarding the program and the necessary forms.

(4) Award procedures. The Department shall make awards after the application deadline. Awards may be prorated based on the number of eligible applicants. An applicant may receive aid for a maximum of nine (9) credit hours during a period beginning with the fall term and ending with the close of the summer term, for a maximum of seventy-eight (78) dollars per credit, for up to a total of thirty-six (36) credits. The Department shall notify applicants of their award eligibility and shall provide for the delivery of funds to eligible applicants on a funds available basis.

(5) Appeals. An applicant may appeal under the terms of Sections 240.404 and 240.4042, Florida Statutes, and Rule 6A-20.0371, FAC.

Specific Authority 240.6072(3) FS. Law Implemented 240.4042, 240.6071, 240.6072, 240.6075 FS. History - New 2-18-93, Amended 10-15-02.

#### **6A-20.041 Occupational Therapist or Physical Therapist Student Loan Forgiveness Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) Eligibility requirements. To receive aid, an applicant shall meet the provisions of Sections 240.6071 and 240.6073, Florida Statutes, and Rules 6A-20.001 and 6A-20.0371, FAC., and:

(a) If an initial applicant, submit Form FFAA-3, Florida Financial Aid Application for Occupational/Physical Therapists, as incorporated by reference in Rule 6A-20.040, FAC., by July 15 after the end of the academic year in which the applicant worked for the first time as a full-time licensed occupational therapist or therapy assistant or as a licensed physical therapist or therapist assistant for at least ninety (90) days in a Florida publicly-funded school as defined in Section 228.041, Florida Statutes. A copy of Form FFAA-3 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Submit an academic transcript from each postsecondary educational institution which the applicant attended in order to complete their education by July 15.

(c) Submit by July 15, Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Form CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(d) If an initial applicant, submit by July 15 of the first year of full-time employment as a therapist in a Florida public school, Form CLON-1, Loan Certification, as incorporated by reference in Rule 6A-20.013, FAC. A copy of Form CLON-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(e) Have, at minimum, a valid temporary Florida permit

as a therapist from the Department of Health.

(f) Declare an intent to be employed for a minimum of three (3) years as a licensed therapist in a Florida publicly-funded school.

(g) Have been employed as a therapist in a Florida publicly-funded school for a full school year. A school year shall be a minimum of one hundred eighty (180) days during the period in which schools are regularly in session, or the equivalent as defined in Section 228.041(16), Florida Statutes. If an otherwise eligible applicant completes eligible employment service for at least ninety (90) days during a school year but does not complete one (1) full year of employment, the Department may provide up to one-half of a full award.

(h) Not owe a repayment of a federal grant or any state grant or scholarship program unless satisfactory repayment arrangements have been made.

(i) Not be in default on a loan made under any federal Title IV loan program or any state loan program unless satisfactory repayment arrangements have been made.

(j) Not have received a Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan or participated in the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(3) Appeals. An applicant may appeal decisions of ineligibility due to errors made by the Office of Student Financial Assistance under the terms of Rule 6A-20.0371, FAC.

(4) Amount of award. The annual amount of student loan repayment shall be a maximum of twenty-five hundred (2,500) dollars for undergraduate loans and a maximum of five thousand (5,000) dollars for graduate loans for up to a combined total of five thousand (5,000) dollars annually. The amount of the award is based on the principal balance outstanding on the applicant's loan as of June 30 prior to the beginning date of full-time employment as a therapist in a Florida publicly-funded school.

(5) Maximum terms of eligibility. Eligible OTs and PTs may receive student loan forgiveness for a maximum of four (4) academic years or a total of ten thousand (10,000) dollars, whichever comes first. Eligible OTAs and PTAs may receive student loan forgiveness for a maximum of two (2) academic years or a total of five thousand (5,000) dollars, whichever comes first.

(6) Award procedures. The Department shall determine eligibility and make awards. Awards may be prorated based on the number of eligible applicants. Renewal applicants will be given priority upon timely receipt of all required forms and documentation. The Department shall notify applicants of their award eligibility.

(7) Payment of award. The Department shall provide for the delivery of funds to a therapist by issuing a warrant made payable to the therapist and the lending institution. If the therapist has more than one lender, the largest loan will be paid first. The Department will forward the warrant to the therapist for submission to the lending institution. However, a therapist who submits documentation from all lenders that all principal balances which were due as of June 30 prior to the beginning date of full-time employment in a Florida publicly-funded school, pursuant to Subsection (3) of this rule, have been paid by the therapist, may have the

warrant made payable directly to the therapist.

Specific Authority 240.6072(3) FS. Law Implemented 240.4042, 240.6071, 240.6072, 240.6073 FS. History - New 2-18-93, Amended 10-15-02.

#### **6A-20.042 Occupational Therapist or Physical Therapist Scholarship Loan Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) General eligibility requirements. To receive a Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan, students shall meet the provisions of Sections 240.404, 240.6071 and 240.6074, Florida Statutes, Rules 6A-20.001 and 6A-20.0371, FAC., and:

(a) If an initial applicant, submit by April 15 prior to the academic year for which aid is requested Form FFAA-1, Florida Financial Aid Application for Students as incorporated by reference in Rule 6A-20.020, FAC. A copy of Form FFAA-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Be enrolled in a therapist assistant program, or in the upper division or graduate level of a therapist program at a Florida postsecondary institution pursuant to Section 240.6074(2), Florida Statutes.

(c) Declare an intent to be employed for a minimum of three (3) years as a licensed therapist in a Florida publicly-funded school.

(d) Be enrolled for a minimum of twelve (12) credits for undergraduate study or nine (9) credits for graduate study for each academic term in which aid is received.

(e) Not owe a repayment of a state or federal student grant or scholarship unless satisfactory repayment arrangements have been made.

(f) Not be in default on a state or federal student loan unless satisfactory repayment arrangements have been made.

(g) Not have participated in either the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program or the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(3) Renewal Requirements. Eligibility for renewal of an award will be evaluated at the end of the second semester or third quarter.

(a) For renewal of an undergraduate scholarship loan, a student must have earned:

1. A minimum institutional cumulative grade point average of 2.0 on a 4.0 scale for all undergraduate work.

2. Twelve (12) credits per term, or the equivalent, for the number of terms the award was received.

(b) For renewal of a graduate scholarship loan, a student must have earned:

1. A minimum cumulative grade point average of 3.0 on a 4.0 scale for all graduate work.

2. Nine (9) credit hours per term, or the equivalent, for the number of terms the award was received.

(4) Appeals. A student may appeal decisions of ineligibility due to failure to meet academic progress require-

ments or errors made by the Office of Student Financial Assistance under the terms of Rule 6A-20.0371, FAC.

(5) Amount of award. The annual amount of the scholarship loan shall be for the cost of education, less other student aid, for a maximum of four thousand (4,000) dollars.

(6) Period of award. Awards will be made annually for the respective academic year.

(7) Maximum terms of eligibility. A student shall be eligible to receive a scholarship loan for a maximum of four (4) semesters or six (6) quarters.

(8) Award procedures.

(a) The Department shall give priority to eligible renewals. If funds are insufficient to provide full awards to all eligible renewals, then available funds will be prorated among eligible renewals.

(b) Initial applicants will be considered for awards from funds remaining after all renewals have received the maximum eligible award. If funds are insufficient to award all initial applicants, initial recipients will be ranked and selected on the basis of unweighted GPA.

(c) The Department shall notify students and institutions of the students' award eligibility. The notice of eligibility to an initial applicant will provide for the acceptance of the award in the form of a properly executed promissory note, Form OPSL-2, Occupational Therapist or Physical Therapist Scholarship Loan Program Promissory Note (Fixed Rate), which is hereby incorporated by reference and made a part of this rule to become effective April, 1996. A copy of this form may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(9) Payment of Awards. The Department shall provide for the delivery of funds to students by transmitting the funds each academic term to the institutions for distribution.

(10) Institutional responsibilities.

(a) Participating institutions shall verify the continued eligibility of awarded students, provide for the disbursement of funds to students, comply with the Department's reporting requirements, and refund to the Department any undisbursed funds.

(b) Institutions shall annually certify to the Department the cost of education and other student aid received.

(c) Within thirty (30) days of the end of the regular registration period each academic term, the Department shall be notified of the eligibility status of awarded students.

(d) Institutions shall certify disbursements of funds to students, and submit any refunds and cancellations to the Department within sixty (60) days of the end of the institution's regular registration period.

(11) Promissory notes. Upon receipt of the institutions' certification of disbursements to students each academic term, the Department shall enter the disbursed amount on each student's promissory note. A statement, with the amount of loan financed to date, will be mailed by the Department, or its designee, to the borrower at the end of each academic year.

(12) Borrower repayment requirements. The Occupational Therapist and Physical Therapist Scholarship Loan Program shall be repaid either through eligible employment service or repayment in cash.

(13) Cash repayment. A scholarship loan recipient who fails to complete an approved therapist program or who fails to render the required employment service in a Florida public school shall be responsible for repaying the total scholarship loan plus interest and all applicable collection charges. Whether or not provided for in the borrower's promissory note and subject to any limitation on the amount of those costs in that note, the Department shall charge a borrower an amount equal to reasonable costs incurred in collecting a loan. These costs may include, at a minimum, all attorney's fees, collection agency charges, and court costs.

(14) Procedures for applying cash repayments. The Department, or its designee, shall apply a cash repayment to any outstanding collection costs, and to any outstanding interest prior to applying any payment to principal.

(15) Interest rate and accrual. Interest at the annual rate of eight (8) percent shall begin to accrue on the first day of the thirteenth month after the date of completion of an approved therapist program, or after the date of termination of full-time study. Interest shall not accrue during periods of deferment or eligible employment service.

(16) Repayment beginning date and minimum payment due. Repayment of principal and interest shall begin on the first day of the thirteenth month after the date of completion of an approved therapist program or after the date of termination of full-time study, unless otherwise approved by the Department. The Department shall use the expected date of completion reported to the Department by the borrower to establish the repayment schedule unless notified otherwise in writing. The Department, or its designee, upon receipt of notification that a student has completed an approved therapist program or has terminated full-time study, shall provide the student with a repayment schedule based upon the actual date of completion or termination reported, and shall include the total of all loan advances. The minimum monthly payment shall be fifty (50) dollars or the unpaid balance of the aggregate amount of the loan plus accrued interest, whichever is less. However, in no instance shall the minimum monthly payment be less than the accruing monthly interest.

(17) Maximum repayment period. A scholarship loan, plus interest, shall be paid back within ten (10) years of the date of completion of an approved therapist program or after the date of termination of full-time study. The ten (10) years shall include any approved periods of deferment pursuant to Subsection (25) of this rule.

(18) Collection options. In the collection of payment of loan interest and principal due, the Department shall have the authority to use any reasonable method to assist the borrower in repaying the loan. Such procedures include but are not limited to:

(a) Approving forbearances, and offering graduated repayment and income sensitive repayment schedules.

(b) Matching the names of defaulted borrowers with the names of employees of the state, political subdivisions, or local governments.

(c) Withholding of government wages, pursuant to Section 112.175, Florida Statutes, in the event borrowers fail to enter repayment or fail to make scheduled payments.

(d) Assignment of defaulted loans to the Department's

designated collection agencies.

(e) Withholding of State of Florida lottery winnings pursuant to Section 24.115(4), Florida Statutes.

(19) Employment service in lieu of cash repayment. In lieu of cash repayments, a recipient who is under full-time contract and employed in a Florida public school shall, within forty-five (45) days of when the eligible employment service begins, submit to the Department, or its designee, Form DNES, Request for Deferment or Notice of Employment Service, which is hereby incorporated by reference and made a part of this rule to become effective July, 1993. A copy of Form DNES may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(20) Definition of a year of employment. A school year shall be a minimum of one hundred eighty (180) days during the period in which schools are regularly in session, or the equivalent as defined in Section 228.041(16), Florida Statutes. A therapist may be eligible to have allowable interest and principal cancelled upon completion of the following days of eligible employment service during the regular school year: 45-89 days counts for one-fourth a year of eligible employment service; 90 - 134 days counts for one-half a year of eligible employment service; 135-179 days counts for three-fourths a year of eligible employment service; 180 days counts for one full year of eligible employment service.

(21) Verification of employment service. A therapist shall apply for employment credit for a loan by submitting annually to the Department, within forty-five (45) days of completion of eligible employment service, Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Form CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(22) Employment cancellation provisions. The Department or its designee, upon receipt of Form CES, shall cancel a maximum of two thousand (2,000) dollars of loan principal and accrued interest for each year of eligible employment service that is verified in accordance with the provisions of Subsection (21) of this rule.

(23) Returning promissory notes to borrowers. When a total loan indebtedness is satisfied either by rendering employment service or by cash payment, the Department shall cancel and return the promissory note, Form OPSL-2, to the scholarship loan recipient.

(24) Promissory note cancellation due to death or permanent disability. Scholarship loan promissory notes shall be cancelled by the Commissioner upon receipt of the certificate of death of the scholarship loan recipient or proof of permanent disability which renders the scholarship loan recipient unable to work.

(25) Deferments from repayment and interest accrual. Deferments from repayment and interest accrual may be granted to scholarship loan recipients for full-time attendance at a postsecondary institution, for unemployment when the recipient is conscientiously seeking but unable to secure full-time employment as a therapist in a Florida publicly-funded school, and for economic hardships, which will cover a borrower who earns less than minimum wage

or exceeds a federally defined debt-to-income ratio, or for other hardship which the Department determines renders the recipient unable to make repayment. A loan recipient may also be eligible for a graduate fellowship deferment, which covers study under an eligible graduate fellowship program, and a rehabilitation training program deferment, which covers a qualified individual's participation in a rehabilitation training program. Deferments may be granted upon request for a total of up to twenty-four (24) months. Any deferment period may not exceed a maximum of one (1) year. To request a deferment, a recipient shall file Form DNES. The Department may request documentation of the conditions supporting the request for deferment. A recipient must notify the Department as soon as conditions for which the deferment was granted no longer exist. Periods of deferment do not extend the maximum repayment period of ten (10) years.

(26) Form DCOR-1 Student Status Report as incorporated by reference in Rule 6A-20.039, FAC., may be used by scholarship loan recipients to report completion of the approved program of studies, termination of enrollment in an approved program of studies, name and permanent address changes, change of institution, termination of full-time undergraduate enrollment, or to request a reduction in the award amount. A copy of Form DCOR-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 229.053(1), 240.6072(3), 240.6074(4)(b) FS. Law Implemented 240.404, 240.4042, 240.6071, 240.6072, 240.6074 FS. History - New 2-18-93, Amended 2-15-95, 4-19-96, 10-15-02.

#### **6A-20.111 Criteria for Documentation of Disability.**

This rule is adopted to implement the requirements of Section 1009.41, Florida Statutes, to establish criteria for documentation of a postsecondary student's disability, as defined by the Americans with Disabilities Act, for financial aid eligibility as a part-time student.

(1) The professional who prepares documentation must have expertise in the area related to the disability in question and be a licensed physician; a licensed psychologist; a licensed school psychologist; a certified school psychologist; a licensed audiologist; a licensed speech-language pathologist; or, a certified school speech-language pathologist.

(2) The documentation must be sufficiently recent, as determined by the educational institution, and include a valid and reasonable assessment of the student's needs; be specific and conclusive, demonstrating that the student has physical, emotional or mental impairment(s) which substantially limit(s) one or more major life activities, as well as showing how the disability will substantially limit the student's ability to meet the minimum full-time load requirements.

(3) The educational institution shall notify the Office of Student Financial Assistance with each term's disbursement report of any student with disabilities for whom the part-time status is a necessary accommodation.

Specific Authority 1001.02(1), 1009.41 FS. Law Implemented 1009.41 FS. History—New 3-12-00.

## Chapter 6D-3

# Enrollment Requirements: Identification and Assignments of Students (Florida School for the Deaf and the Blind)

### 6D-3.002 Admission and Enrollment Requirements.

#### (1) Definitions.

(a) Hearing Impaired. A hearing impairment is a hearing loss of thirty (30) decibels or greater, pure tone average of 500, 1000, 2000 Hz, ANSI, unaided, in the better ear.

1. Deaf applicants are those whose hearing impairment is so severe that they cannot learn speech and language through normal channels and who need extensive instruction in order to develop language, communication and academic skills.

2. Hard-of-hearing applicants are those whose residual hearing is adequate for learning speech, language, and academic skills through normal channels, provided that classroom and instructional modifications are made.

(b) Visually Impaired. Visual impairments are defined as disorders in the structure and function of the eye that, even with the best correction and treatment, interfere with learning.

1. Blind applicants are those who after the best possible ocular correction have no vision or have little potential for using vision and rely on tactual or auditory senses for learning.

2. Partially sighted applicants are those who after the best possible adjustments and ocular corrections use remaining vision for learning.

(c) Deaf-Blind. One who has a hearing impairment and a visual impairment, the combination of which causes severe communication and other developmental and educational problems that cannot be properly accommodated in special programs solely for the hearing impaired or the visually impaired applicant.

(d) "Florida applicant" means an applicant whose residence is within the state of Florida.

(e) "Residence" means actual physical presence in a place as the parent or adult applicant's place of abode, with the intention to remain there permanently or for an indefinite period of time. Actual presence of the parent or adult applicant for the purpose of receiving free education shall not be considered residence.

(f) Temporary assignment. An applicant's presence in the School for more than ten days for completion of evaluations, either for admission or to provide information to the student's school district. It does not guarantee admission.

(g) Residential determination. An applicant's need to be in a residential setting, as determined by the school district through its Individual Educational Plan process.

(h) Residential service. Room and board provided by the School as a service to a Florida student at the request and consent of the parent at no cost to the parent.

(i) Applicant. A child who meets or may meet one of the

classifications defined in paragraph (a), (b), or (c), above who seeks admission, either directly or through his or her parents, guardian, or school district, into the educational program of the School.

(j) Admission. The process of determining whether the applicant is qualified for enrollment and whether the applicant should or should not be enrolled.

(k) Enrollment. The actual registration by the School of the applicant into the School's educational program.

(l) Student. A child who has been enrolled in the School's educational program(s), and who may or may not be a residential student.

(m) Assignment. The determination by the staffing committee of the educational program(s) in the School to which the enrolled student is assigned.

#### (2) Criteria for Admission and Continued Enrollment.

(a) Florida applicants who meet admission criteria are qualified for enrollment or continued enrollment without the payment of tuition. Non-Florida applicants who meet admission criteria other than residency may be enrolled on a tuition basis provided that such enrollment does not deny admission to any qualified applicant who is a resident of Florida.

(b) In addition to meeting the criteria for admission, an applicant will be classified as a "Florida student" or a "non-Florida student". A non-Florida student will be required to pay the tuition charges annually established by the Board of Trustees, with the exception of those students considered tuition fee exempt, pursuant to Section 228.121(3), F.S.

1. In determining residence, the School may consider such matters as voter registration, driver's license, automobile registration, location of bank accounts, rent receipts or any other relevant evidence that tends to show the intent to abide in a jurisdiction permanently or for an indefinite period of time.

#### 2. If the applicant is a minor:

a. The applicant shall be presumed to have the same residence as the applicant's parents or as the parent who has legal custody of the applicant, in the absence of contrary evidence.

b. If the applicant has living parents who reside outside Florida or if the parent who has legal custody of the applicant resides outside Florida, the applicant will be presumed to be a "non-Florida student" in the absence of contrary evidence.

c. If the applicant claims entitlement to be classified as a "Florida student" due to the appointment by a court of competent jurisdiction of a guardian, or legal custodian of the applicant other than the applicant's parents, the burden of establishing facts which justify classification of the applicant as a resident entitled to classification as a

"Florida student" is on the applicant.

3. Application for admission as a "Florida student" shall include a written statement made under oath by the applicant if 18 years of age or older, or made by the applicant's parents, guardian or legal custodian if a minor, that the applicant is entitled to classification as a Florida student under this rule.

4. Any "non-Florida student" enrolled in the Florida School for the Deaf and the Blind prior to October 29, 1984, is required to pay tuition charges annually established by the Board of Trustees. Such student, however, shall not be dismissed from School for failure to pay the tuition charges. In the event of nonpayment, the School shall exercise every reasonable effort to collect the tuition charges from all sources legally responsible for payment.

(c) Any applicant who will attain the age of five years on or before September 1 of the school year may be considered for admission. Any applicant below the age of five years may be considered for admission as a day student.

(d) Applicants eighteen years or older may be enrolled or continued if the goal of the Individual Educational Plan is graduation with a vocational certificate of proficiency or reasonable evidence of progress toward a diploma.

(e) Applicants and students 18 or older, for whom graduation with a vocational certificate of proficiency or a diploma is not the goal of the Individual Educational Plan, may be considered for admission or continued enrollment on the recommendation of the staffing committee.

(f) Applicants who are twenty-one years of age on or before September 1 of the school year shall not be considered for admission.

(g) Students who are twenty-one years of age on or before September 1 of the school year may be considered for continued enrollment in the School, based upon recommendation of the staffing committee.

(h) An applicant is qualified for admission to the School's program for the hearing impaired if the applicant meets all of the following admissions criteria:

1. Evidence of a hearing impairment of thirty (30) decibels or greater, pure tone average of 500, 1000, 2000 Hz, ANSI, unaided, in the better ear.

2. Evidence that the hearing impairment has the potential to adversely affect the applicant's academic performance, social development, language development, communication skills, or intellectual functioning.

3. The applicant must possess evidence of the following minimum daily living skills:

- a. Finger feeds self, chews and swallows most foods,
- b. Indicates awareness of being soiled or wet,
- c. Assists in dressing self, an
- d. Cooperates in bathing.

4. Evidence that the hearing impaired applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

- a. Severely emotionally disturbed, Rule 6A-6.03016, F.A.C.,
- b. Autistic, Rule 6A-6.03023, F.A.C.,
- c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,

d. Trainable Mentally Retarded or Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.,

(i) An applicant is qualified for admission to the School's program for the visually impaired if the applicant meets all of the following admissions criteria:

1. Medical. There is a documented eye impairment as manifested by at least one of the following:

- a. A visual acuity of 20/70 or less in the better eye after the best possible correction;
- b. A peripheral field so constricted that it affects the applicant's ability to function in an academic setting; or
- c. A progressive loss of vision which may affect the applicant's ability to function in an academic setting.

2. Educational. There is documented functional vision loss which:

- a. Inhibits optimal processing of information through the visual channel; and
- b. Requires the use of specialized techniques, textbooks, materials or equipment.

3. The applicant must possess evidence of the following minimum daily living skills:

- a. Finger feeds self, chews and swallows most foods,
- b. Indicates awareness of being soiled or wet,
- c. Assists in dressing self, an
- d. Cooperates in bathing.

4. Evidence that the visually impaired applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

- a. Severely emotionally disturbed, Rule 6A-6.03016, F.A.C.,
- b. Autistic, Rule 6A-6.03023, F.A.C.,
- c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,
- d. Trainable Mentally Retarded or Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.

(j) An applicant is qualified for admission into the School's program for the deaf-blind if the applicant meets the following admissions criteria:

1. Meets the definition of blind or partially sighted in Rule 6A-6.03014, F.A.C., as attested to by an ophthalmologist or optometrist, and meets the definition of deaf or hard of hearing in paragraphs 6A-6.03013(1)(a) and (b), F.A.C., as attested to by a certified audiologist, and is unable to profit from a program, for the hearing impaired or a program for the visually impaired without severe adjustments, e.g., a tutor-companion; or

2. Meets the definition of blind or partially sighted in Rule 6A-6.03014, F.A.C., and in the best professional judgment of the evaluator is deaf or hard of hearing as defined in Rule 6A-6.03013, F.A.C., and is unable to profit from a program for the hearing impaired or a program for the visually impaired without severe adjustments, e.g., a tutor-companion; or

3. Meets the definition of deaf or hard of hearing in Rule 6A-6.03013, F.A.C., and in the best professional judgment of the evaluator is blind, as defined in Rule 6A-6.03014, F.A.C., and is unable to profit from a program for the hearing impaired or a program for the visually impaired without severe adjustment, e.g., a tutor-companion.

4. The applicant must possess evidence of the

following minimum daily living skills:

- a. Finger feeds self, chews and swallows most foods,
- b. Indicates awareness of being soiled or wet,
- c. Assists in dressing self.

5. Evidence that the deaf-blind applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

- a. Severely emotionally disturbed, Rule 6A-6.03016, F.A.C.,
- b. Autistic, Rule 6A-6.03023, F.A.C.,
- c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,
- d. Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.

6. Evidence that the deaf-blind applicant cannot be properly accommodated exclusively in programs for the hearing impaired or visually impaired.

(k) An applicant may not be qualified for admission or continued enrollment:

1. If the applicant or student is determined to be a danger to self or others.
2. If the applicant or student is determined to be disruptive to other students or the educational process.
3. If the applicant or student is determined to have medically related health and safety issues which are beyond the scope of the Health Care Center, the educational and residential programs and their resources to appropriately manage.
4. If the parent or adult student refuses to give consent for emergency medical treatment or for the health care plan for students with involved medical problems.

5. Such a determination shall be based upon a recommendation by the staffing committee, in consultation with professionals, based upon past evidence of behavior, criminal activity or the commission of a Class A violation as defined by the Code of Student Conduct, and health and safety. A final determination of admission and continued enrollment will be made by the President or designee. Impartial due process hearings may be initiated as provided in Rule 6D-3.003, F.A.C., as a result of such determinations.

(l) There must be an individualized evaluation(s) by a qualified individual(s), an eligibility determination and a proposed or current Individual Educational Plan by a school district.

(m) In admitting applicants to such programs, special consideration will be given to applicants who meet admission criteria and who:

1. Reside in school districts not providing approved programs as required by Rule 6A-6.03013, 6A-6.03014 or 6A-6.03022, F.A.C., or who cannot be reasonably transported to an approved program in a school district; or
2. Have concomitant physical, mental or emotional handicapping conditions; or
3. Have a home environment such that continuation in that environment is detrimental to the physical, emotional or mental development of the applicant; or
4. On an interim basis have extenuating circumstances. This may include the difficulty in an applicant adapting to his disability.

(3) Procedures for Application.

(a) Applications for the admission of a student shall be submitted by school personnel from the school district in which the applicant or his or her parents, legal guardian, or person who has legal custody resides; or

(b) Application for admission may be submitted directly to the School by parents, legal guardian or person who has legal custody.

(c) If the applicant has not been evaluated by the school district, pursuant to Section 230.23(4)(m), F.S. and Rule 6A-6.0331, F.A.C., and determined eligible for a special program for exceptional students, the applicant or the requesting authority will be directed by the School to have the applicant evaluated by the school district and an Individual Educational Plan prepared by that school district. No applicant will be considered for admission to the School without the school district evaluation. The School shall immediately send a copy of the completed application form to the school district in which the applicant or his or her parents, guardian or person having legal custody resides.

(d) If the applicant has already been evaluated by the school district, pursuant to Section 230.23(4)(m), F.S., and Rule 6A-6.0331, F.A.C., and determined eligible for a special program for exceptional students, the applicant will be considered for admission. The School shall immediately send a copy of the completed application form to the school district in which the applicant or his or her parents, guardian or person having legal custody resides and request from the school district all current evaluation data and a copy of the current or proposed Individual Educational Plan.

(e) Notwithstanding the provisions of paragraphs (c) and (d) above, a school district and the School may enter into an agreement for the School to perform one or more of the following activities:

1. Conduct an individual evaluation(s) by qualified individuals.
2. Determine that the student is handicapped.
3. Develop Individual Educational Plan.

(f) Any determination made by the School pursuant to such an agreement shall be considered a determination by the school district, as provided for in paragraph (e) above.

(4) Procedures for Determining Admissions and Assignment.

(a) Upon receipt of a completed application from a school district or a parent, the School staffing committee shall review any evaluation data submitted and shall conduct or obtain any additional evaluations necessary.

(b) The Staffing committee shall recommend admission through the professional activity of reviewing evaluation information, eligibility determination, the Individual Educational Plan developed by the school district and matching it to the definitions and criteria for admission in subsections 6D-3.002(1) and (2), F.A.C.

(c) An applicant may be considered for a temporary assignment for extended evaluation when meeting admission criteria cannot be established through the staffing process.

1. A staffing and a temporary Individual Educational Plan must be developed prior to temporary assignment.

2. Parental consent must be obtained, prior to temporary assignment.

3. The extended evaluation must be for no longer than ninety (90) school days.

4. A temporary Individual Educational Plan will be followed during the extended evaluation period.

(d) The staffing committee shall consist of a minimum of three professional personnel, one of whom shall be the President or designee.

1. A representative(s) from the school district in which the applicant resides shall be invited in writing to attend and participate in the recommendations regarding the admission and assignment of the applicant.

2. Other professional personnel who may be invited include but are not limited to the following: Director of Child Study Center, an audiologist, Principal of the Department, supervising teacher in the Department, and an educational diagnostician.

3. Additional personnel may be involved in the recommendations through providing information or by attending staffing meetings as requested by the parent, School or the school district.

4. The parents and, when appropriate, the applicant shall be invited to attend the admission and assignment staffing.

(e) Upon receipt of the completed application and the receipt of a current or proposed Individual Educational Plan from the school district, the Florida School for the Deaf and the Blind shall schedule a staffing committee meeting no later than 30 calendar days after receipt of the completed application and the current or proposed Individual Educational Plan. School district personnel and parents shall receive a minimum notice of ten working days unless another date and time are mutually agreed upon.

(f) The location of the staffing committee meeting shall be at the Florida School for the Deaf and the Blind unless another location is mutually agreed upon by the School, the school district and the parent.

(g) In interpreting evaluation data and in making admission and assignment decisions, each committee shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior;

2. Insure that information obtained from all of these sources is documented and carefully considered;

3. Insure that the assignment decision is made by a group of persons, including persons knowledgeable about the applicant, the meaning of the evaluation data;

4. Insure that the assignment decision is made in conformity with the least restrictive environment.

(h) If a determination is made that an applicant is qualified for admission, an Individualized Education Plan shall be developed for the applicant in accordance with Rule 6D-3.0021, F.A.C.

(i) The President of the School shall be responsible for the following:

1. Reviewing the recommendations of the evaluation specialists and the staffing committee evaluation data

submitted with an applicant's complete application and the current or proposed Individual Educational Plan from the school district.

2. Reviewing the recommendations for admission made by the staffing committee.

3. Making final decisions on admission.

4. Assuring that parents have been appropriately informed of the applicant's qualifications for admission, the determination of admission and assignment, and that the parent has consented to the admission to the School.

5. Informing the appropriate school district of the School's determination of admission and assignment of each applicant.

6. Insuring that appropriate procedures and parent notices are completed when a student is dismissed from the School.

(j) The Florida School for the Deaf and the Blind, or the parent, who disagrees with the Individual Educational Plan prepared by the School, or the assignment of the applicant under the Individual Educational Plan has a right to a due process hearing as provided by Rule 6D-3.003, F.A.C.

(5) Dismissal/Continued Enrollment.

(a) Students who no longer meet the admission criteria of the School described in subsection 6D-3.002(2), F.A.C., or whose re-evaluation(s) as described in subsection 6D-3.0021(2), F.A.C., indicate that enrollment in the School is no longer needed may be dismissed from enrollment in the School.

(b) Once enrolled, a student who, upon re-evaluation, no longer meets FSDB admission criteria may be allowed to remain in the School if it is determined that the student's identified needs are being met and the student is progressing. A student shall not be allowed to remain, if the student is considered to be a danger to self or others. Upon review of the staffing committee's recommendations, which shall be based on current re-evaluation data, the President or designee shall render the final decision.

(c) If the student is determined to be a danger to self or others, the procedures pursuant to sub-subparagraph 6D-3.0021(1)(c), (3)(a)4.b. and paragraph 6D-3.002(2)(k), F.A.C., shall be followed.

(d) The staffing committee shall follow the staffing procedures pursuant to FSDB Rules 6D-3.002 and 6D-3.0021, F.A.C. The President or designee may order an additional staffing committee meeting if it is determined proper procedures were not followed.

(e) When planning a staffing committee meeting the student's school district and parents or guardian shall receive ten (10) day prior notice in writing of:

1. Any evaluations to be conducted

2. The intent to have a staffing meeting.

(f) During or upon completion of the staffing committee meeting the student's school district and parents or guardian shall receive the results of the evaluations and the recommendations of the staffing committee. A final determination for continued enrollment will be made by the President or designee. The student's school district and parents or guardian shall receive immediate notice via telephone or facsimile of the final determination regarding the student's continued enrollment.

(g) Dismissal of a student shall not take effect until 14 days after the President's, or designee's, written notification of the dismissal to the school district and to the student's parents, or when an appropriate alternative placement is secured by the school district, whichever occurs first. The written notification of the dismissal will be sent by registered mail, return receipt requested. The School's normal disciplinary procedures may be followed during these proceedings.

(h) If the student is deemed medically at risk by the Medical Director, or is determined to have a health condition beyond the responsibility of the Health Care Center, the student shall immediately be sent home. The School Medical Director, in accordance with paragraph 6D-9.004(1)(d), F.A.C., may request the appropriate medical examinations from the student's attending physicians or specialists. If as specified in paragraph 6A-6.03020(3)(a), F.A.C., a student is to be at home for at least fifteen (15) consecutive school days due to a physical or mental condition, or for at least fifteen (15) school days which need not run consecutively due to a chronic condition and will be able to participate in and benefit from an instructional program, then the School will contact the local school District to cooperatively provide instructional services.

(i) Upon receipt of the results of the medical examinations, a staffing committee, following the procedures pursuant to Rule 6D-3.002, F.A.C., shall meet to make a recommendation whether the student continues to meet FSDB's admission criteria. When conducting a staffing committee for this purpose, provisions of paragraphs (5)(e)-(f) shall be followed except that the school district and the parents or guardian shall receive a five (5) day notice of the meeting.

(j) Dismissal of a student who has been determined to have medically related health and safety issues which are beyond the scope of the Health Care Center, the educational and residential programs and their resources, shall not take effect until 10 days after the President's, or designee's, written notification of the dismissal to the school district and to the student's parents or guardian, or when an appropriate alternative placement is secured by the school district, whichever occurs first. The written notification of the dismissal will be sent registered mail, return receipt requested.

(k) Absences incurred during the time the procedures described in paragraphs (5)(h)-(i) are followed shall be considered excused absences, as defined in paragraph 6D-7.007(2)(e), F.A.C.

(l) When a student is withdrawn by a parent, the School shall notify by mail, as soon as possible, the student's school district.

(m) The student or his or her parents or legal guardian may request a due process hearing in accordance with Rule 6D-3.003, F.A.C., to challenge the student's dismissal from the School under these provisions.

Specific Authority 242.331(3) FS. Law Implemented 120.53(1)(b), 229.053(2)(l), (j), 230.23(4)(m), 242.331(4) FS. History—New 12-19-74, Revised 1-29-76, Amended 1-29-80, 5-2-86, Formerly 6D-3.02, Amended 5-5-87, 4-12-90, 12-20-92, 3-29-95, 3-25-96.  
Cf. P. L. 94-142, 20 USC 1401(18), (19), 1412(2), (5), (6), 1413(a)(2), Federal Register, Volume 42, Number 163, Regulations 121a.2, 121a.4, 121a.503.

### **6D-3.0021 Individual Educational Plan.**

(1) The School shall develop and implement at least annually an Individual Educational Plan for each student.

(a) An Individual Educational Plan consists of written statements including:

1. A statement of the student's present levels of educational performance;
2. A statement of annual goals, including short term instructional objectives;
3. A statement of the specific special education and related services to be provided to the student and the extent to which the student will be able to participate in regular educational programs;
4. The projected dates for initiation of services and the anticipated duration of the services;
5. Appropriate objective criteria and evaluation procedures and schedules for determining on at least an annual basis, whether the short term instructional objectives are being achieved; and
6. A statement of the needed transition services in accordance with Rule 6D-3.0021, F.A.C., including, if appropriate, a statement of the School's and each participating agency's responsibilities or linkages, for each student beginning no later than age 16, before the student leaves the School and at a younger age if determined appropriate.

(b) Transition services means a coordinated set of activities for a student, designed within an outcome-oriented process that promotes movement from school to post-school activities which may include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services independent living or community participation.

1. The coordinated set of activities must be based on the student's needs, and take into account the student's preferences and interests and shall include:

a. Needed activities in the areas of instruction, community experiences, the development of employment, and other post-school adult living objectives; and

b. If appropriate, daily living skills and functional vocational evaluation.

2. If the IEP team determines that transition services are not needed in one or more areas, the IEP shall include a statement to that effect and the basis upon which the determination was made.

(c) An Individual Educational Plan which has been reviewed and revised, if appropriate, within the last year, must be in effect at the beginning of each school year for each student continuing in the School.

1. The Principal or designee, shall schedule all Individual Educational Plan review conferences on an annual basis.

2. For new students admitted to the School, an Individual Educational Plan must be developed or the Individual Educational Plan developed by the school district may be accepted or revised.

3. The Individual Educational Plan must be developed prior to enrollment and within a thirty day period following the determination of acceptance of admission.

(d) Meetings shall be held to develop, review and revise a student's Individual Educational Plan.

1. A meeting shall be held at least once a year to revise each student's Individual Educational Plan. A meeting shall also be held to review and revise a student's Individual Educational Plan when it is suspected that the student may no longer meet the School's admission and enrollment requirements.

2. Meetings shall include the following participants:

a. The parents of the child

b. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment). The regular education teacher of a student with a disability must, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:

(I) Appropriate positive behavioral interventions and strategies for the student; and

(II) Supplementary aids and services, classroom accommodations, modifications or supports for school personnel that will be provided for the student consistent with SBE paragraph 6A-6.03028(7)(c), F.A.C.

c. At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;

d. A representative of the School who:

(I) Is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;

(II) Is knowledgeable about the general curriculum; and

(III) Is knowledgeable about the availability of resources of the School.

e. An individual who can interpret the instructional implications of evaluation results.

f. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate; and

g. If appropriate, the child.

h. The student, beginning by the student's fourteenth birthday or younger if determined appropriate by the IEP team, when the purpose of the meeting is to consider the student's transition service needs, as described in paragraphs (7)(i)-(j) of SBE Rule 6A-6.03028, F.A.C. If the student does not attend, the School shall take other steps to ensure that the student's preferences and interests are considered.

i. In addition, for a student who has been evaluated for the first time, a member of the evaluation team or some other person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation.

j. If the purpose of the IEP meeting is to consider transition services, the School shall invite a representative of any other agency that may be responsible for providing or paying for transition services. If the student does not attend, the School shall take steps to ensure that the student's preferences and interests are considered; if an agency invited to participate in the IEP meeting does not

attend, the School shall take steps to obtain the input of the agency in the planning of any transition services.

3. A representative of the school district in which the student resides shall be invited to attend each meeting to develop or revise the student's Individual Educational Plan.

(e) If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student, the School shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives, and if necessary, revising the student's IEP. Nothing in this section relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

(f) All Individual Educational Plans shall be implemented as soon as possible following the meeting to develop the plan. An exception to this would be when meetings occur during the summer or a vacation period, or where there are circumstances which require a short delay such as arranging transportation. However, there can be no undue delay in providing special education to the student.

(2) Re-evaluation.

(a) Every student enrolled in the School shall be re-evaluated every three years or more frequently if conditions warrant or if the student's parent or teacher requests an evaluation.

(b) Procedures for re-evaluation. Re-evaluation is the process whereby information about a student is gathered and reviewed to determine the need for continuation in the School's program and to determine if a student meets the School's criteria for continued enrollment. The following steps are required:

1. An evaluation specialist and an exceptional student teacher shall examine available information in all areas addressed in the initial evaluation or in subsequent re-evaluations of the student and shall make the appropriate referral(s) for one or more formal evaluations based on their examination and the requirements of Rule 6A-3.002, F.A.C. When necessary, another member of the instructional or supervisory staff may substitute for the exceptional student teacher.

2. A meeting of the Individual Educational Plan committee or the staffing committee shall be convened to review all available information about the student including reports from the additional evaluations, to consider the need for continuation in the School's program and to consider if the student meets the School's criteria for continued enrollment. If the student is to continue in the School's program(s), the student's Individual Educational Plan shall be reviewed in accordance with Rule 6A-3.0021, F.A.C.

3. If the re-evaluation indicates that enrollment in the School is no longer needed or that a student no longer meets the School's criteria for continued enrollment, the applicable dismissal or eligibility staffing procedures shall be followed, in accordance with subsection 6D-3.002(5), F.A.C.

(3) Parental Involvement. The School shall provide

for parents, guardians, surrogate parents as assigned pursuant to Rule 6D-3.005, F.A.C., or persons acting in loco parentis to be involved in decisions concerning the education of students. Such procedures shall include the following:

(a) The School shall make provision for:

1. Prior written notice regarding student identification and evaluation activities including a statement informing parents of all procedural safeguards available.

2. Obtaining informed parental consent prior to initial individual evaluation to determine eligibility as a handicapped student.

3. Obtaining informed parental consent prior to initial assignment into a program at the School.

4. Parental participation in the development of the Individual Educational Plan for the student.

a. The School shall take steps to ensure that one or both of the parents of a student are present at each meeting or are afforded the opportunity to participate by:

(I) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend;

(II) Scheduling the meeting at a mutually agreed on time and place.

b. The notice to the parents must indicate the purpose, time and location of the meeting and who will be in attendance and their positions. If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, identify any other agency that will be invited to send a representative and note that the School will invite the student. For students for whom it is suspected that they no longer meet the School's admission and enrollment requirements, the notice must also indicate that as a result of this meeting an eligibility staffing could be requested to determine whether the student continues to meet the School's admission criteria.

c. If neither parent can attend, the School shall use other methods to ensure parent participation, including individual or conference telephone calls.

d. A meeting may be conducted without a parent in attendance if the School is unable to obtain the attendance of the parents. In this case, the School must have a record of its attempts to arrange a mutually agreed on time and place such as:

(I) Detailed records of telephone calls made or attempted and the results of those calls;

(II) Copies of correspondence sent to the parents and any responses received; and

(III) Detailed records of visits made to the parent's home or place of employment and results of those visits.

e. The School shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

f. The School shall give parents a copy of the Individual Educational Plan.

(b) Procedures to use language of parent. In communication with parents not proficient in the English language, provision shall be made to use the language or other mode of communication commonly used by the

parent.

(c) Procedure when parent refuses to grant consent. Appropriate School personnel shall document attempts to secure consent from the parent prior to initial assignment, and if consent is not obtained, School personnel may, at their discretion, request a review as provided in Rule 6D-3.003, F.A.C.

(d) Procedure when parent does not wish to participate. If the parent does not wish to participate in the development of the Individual Educational Plan for the student, School personnel shall document attempts to obtain parental participation and shall proceed to develop the plan.

Specific Authority 1002.36(4)(c) FS. Law Implemented 1002.36(4)(d) FS. History--New 5-5-87, Amended 9-16-93, 3-25-96, 3-22-04.

### **6D-3.0022 Independent Educational Evaluation.**

(1) For the purpose of this rule:

(a) "Independent educational evaluation" is an evaluation conducted by a qualified examiner who is not employed by the Florida School for the Deaf and the Blind.

(b) "Public expense" means that the Florida School for the Deaf and the Blind either pays for the full cost or insures that the evaluation is otherwise provided at no cost to the parent.

(2) The Florida School for the Deaf and the Blind shall provide to parent, on request, information about where an independent educational evaluation may be obtained.

(3) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the Florida School for the Deaf and the Blind; however, the Florida School for the Deaf and the Blind may initiate a hearing under Rule 6D-3.003, F.A.C., to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(a) Must be considered by the Florida School for the Deaf and the Blind in any decision made with respect to the provision of a free, appropriate, public education to the student, and

(b) May be presented as evidence at a hearing under this subpart regarding the student.

(5) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(6) Whenever an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and qualifications of the examiner, must be the same as the criteria which the Florida School for the Deaf and the Blind uses when it initiates an evaluation.

Specific Authority 242.331(3) FS. Law Implemented 120.53(1)(b), 242.331(4) FS. History--New 5-5-87, Amended 9-16-93.

### 6D-3.0023 Protection in Evaluation Procedures.

(1) Testing and evaluation materials and procedures used for the purposes of evaluation and re-evaluation of applicants shall be selected and administered so as not to be racially or culturally discriminatory.

(2) The School shall provide tests and evaluation materials that:

(a) Are administered in the applicant's native language or other mode of communication;

(b) Have been validated for the specific purpose for which they are used;

(c) Are administered by trained personnel in conformance with the instructions provided by their producers;

(d) Are tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(e) Are selected and administered so as best to ensure that when a test is administered to an applicant with impaired sensory, manual or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the applicant's impaired sensory, manual or speaking skills (except where those skills are the factors which the test purports to measure).

(3) No single procedure is used as the sole criterion for determining an appropriate educational program for an applicant.

(4) The evaluation is made by an interdisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.

(5) The applicant is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.

(6) Procedures for hearing impaired applicant evaluation.

(a) Tests to determine intellectual functioning and learning abilities shall be selected from non-language performance scales standardized on, or adapted for the hearing impaired. Evaluation of academic achievement and communication skills shall take into consideration the student's intellectual functioning, degree of hearing loss and method of communication.

(b) The minimum evaluation shall include:

1. Audiological evaluation

2. Evaluation of preacademic or academic achievement, including information on the applicant's strengths and weaknesses,

3. Evaluation of social development,

4. Evaluation of receptive and expressive communication, and

5. Individual assessment of intellectual functioning, or developmental scales if more appropriate for students under age seven.

(7) The minimum evaluations necessary for determining admission for visually impaired applicant shall be:

(a) A medical eye examination describing: etiology, diagnosis, treatment regimen, prognosis, near/distance and

corrected/ uncorrected acuity measures for left eye, right eye and both eyes, measure of field of vision, and recommendations for lighting levels, physical activity, use of aids, or use of glasses as appropriate;

(b) Evaluation of developmental or academic functioning, daily living skills, mode of reading, and, if appropriate, vocational and orientation and mobility evaluations;

(c) Documented observation of functional vision by a teacher of visually impaired applicant or appropriately trained diagnostician;

(d) Screening for hearing, speech and language functioning, with referral for complete evaluations when the need is indicated.

(8) The minimum evaluations necessary for determining admission for deaf-blind applicant shall be:

(a) Medical eye examination,

(b) Audiological evaluation

(c) Intellectual functioning evaluation, and

(d) Educational evaluation.

Specific Authority 242.331(3) FS. Law Implemented 120.53(1)(b), 229.053(2) (i), (j), 242.331(4) FS. History—New 5-5-87.  
Cf. P.L. 94-142, 20 USC 1412(5), Federal Register, Volume 42, Number 163, Regulation 121a.532.

### 6D-3.003 Due Process Procedures.

(1) Impartial due process hearings may be initiated by a parent or the School on the proposal to initiate or change the identification, evaluation, or educational assignment of the student or the provision of a free, appropriate, public education to the student or the refusal to initiate or change the identification, evaluation or educational assignment of the student or the provision of a free, appropriate, public education to the student.

(2) The School shall provide:

(a) Written notice to the parent, consistent with the requirements of subsection 6D-3.0021(3), F.A.C., of any proposal or refusal to initiate or change the identification, evaluation or educational placement of the student or the provision of a free, appropriate, public education to the student, including:

1. A full explanation of all the procedural safeguards available to the parents as provided herein and in the School procedures for confidentiality of student records;

2. A description of the action proposed or refused by the School, an explanation of why the School proposes or refuses to take the action, and a description of any options the School considered and the reasons why those options were rejected;

3. A description of each evaluation procedure, test, record or report the School used as a basis for the proposal or refusal; and

4. A description of any other factors which are relevant to the proposal or refusal.

(b) Informing the parent of any free or low cost legal and other relevant services available if the parent requests the information, or the parent or School initiates a hearing.

(c) Identification and selection of an impartial hearing officer. Any hearing conducted under this section shall be conducted by a hearing officer from the Division of Adminis-

trative Hearings, Department of Administration. Such hearings shall be conducted in accordance with these rules.

(d) The school shall keep a list of persons who serve as hearing officers including a statement of the qualifications of each of these persons.

(e) A decision made under this rule is final unless a party to the hearing brings civil action as provided in Section 230.23(4)(m)4., F.S., or brings civil action in Federal Court. In the alternative, any party aggrieved by the final decision shall have the right to request an impartial review of the hearing officer's order by the District Court of Appeals as provided by Section 120.68, F.S.

(3) Duties and responsibilities of hearing officers shall be:

(a) To conduct the hearing in a fair and impartial manner;

(b) To summarize the facts and findings of the case and arrive at an impartial decision based solely on information presented during the hearing;

(c) To mail copies to all parties of the facts, findings and decision regarding the hearing;

(d) To be accountable for all deadlines and procedures in the statutes and rules for such hearings;

(e) To maintain confidentiality of all information; and

(f) To rule on requests for specific extensions of time beyond the periods set forth in this section at the request of either party.

(4) Rights of any party to a hearing. Any party to a hearing has the right to:

(a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children.

(b) Present evidence and confront, cross-examine, and compel the attendance of witnesses.

(c) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing.

(d) Obtain written or electronic verbatim records of the hearing at no more than cost.

(e) Obtain written findings of facts and decisions.

(f) Parents involved in hearings must be given the right to have the student who is the subject of the hearing present, and to open the hearing to the public.

(5) Arrangement for conducting the hearing. The President of the School or designee shall make provisions for:

(a) Notifying hearing officer.

(b) Determining the need for an interpreter for the parents and, if needed, make appropriate arrangements.

(c) Establishing a time and place which are reasonably convenient to the parent and student involved, and notifying all parties.

(d) Arranging for clerical assistance, cost of hearing, availability of facilities, and verbatim transcript of the hearing.

(e) Notifying all parties regarding information, rights and responsibilities before, during and after the hearing.

(f) Determining parental wishes concerning the attendance of the student at the hearing and whether they wish the hearing to be opened or closed, and making such arrangements by notifying all parties.

(g) Transmitting the findings and decisions, after deleting any personally identifiable information, of any such hearings to the Commissioner of Education for review by the State Advisory Committee for the Education of Exceptional Students.

(h) Completing other responsibilities specified by the President or the Board of Trustees.

(6) Timeliness. The School shall ensure that not later than forty-five (45) days after the receipt of a request for a hearing a final decision is reached and a copy of the decision is mailed to each of the parties and the Division of Public Schools.

(7) Student's status during proceedings. During the time that an administrative or judicial proceeding regarding a complaint is pending, unless the School and the parent of the student agree otherwise, the student involved in the complaint must remain in his/ her present educational placement or be removed by law.

(8) Attorney's Fees. The court may award reasonable attorneys' fees as part of the costs to the parents or guardian of a handicapped child if they are the prevailing party.

Specific Authority 242.331(3) FS. Law Implemented 120.53(1)(c), 242.331(4) FS. History—New 4-5-79, Amended 9-8-85, Formerly 6D-3.03, Amended 5-5-87, 4-12-90, 4-4-93.

Cf. P. L. 94-142, 20 USC 1401(18), (19), 1412(2), (5), (6), 1414(a)(5), (6), (7), 1415(a), Federal Register Volume 42, Number 163, Regulations 121a.2, 121a.4, 121a.506, 121a.507.

#### **6D-3.004 Impartial Review and Appeal.**

(1) Conduct of the hearing. All hearings conducted under Rule 6D-3.003, F.A.C., shall be conducted according to the provisions of the Rules of the Administration Commission Model Rules, Chapter 28-106, F.A.C., Decisions Determining Substantial Interests, unless otherwise provided for in Rule 6D-3.003, F.A.C.

(2) Appeal of hearing officer's decision. The decision of the hearing officer shall be final, except that any party aggrieved by the finding and decision rendered by the hearing officer shall have the right to request an impartial review of the hearing officer's order by the District Court of Appeal as provided by Section 120.68, F.S. Notwithstanding any law to the contrary, during the pendency of any proceeding conducted pursuant to this section, etc., see Section 230.23(4)(m)4., F.S.

Specific Authority 120.53(1)(b), 242.331(3) FS. Law Implemented 120.53(1)(b), 242.331(4) FS. History—New 4-5-79, Amended 9-8-85, Formerly 6D-3.04.

#### **6D-3.005 Assignment of Surrogate Parents.**

Procedures for the assignment of surrogate parents shall be prescribed by the Rules of the Florida Department of Education, subsections 6A-6.0333(1)-(6), F.A.C., entitled Surrogate Parents; and all references to "School Board" shall read "Florida School for the Deaf and the Blind," and all references to "Superintendent" shall read "President."

Specific Authority 120.53(1)(a), 242.331(3) FS. Law Implemented 120.53(1)(b), 242.331(4) FS. History—New 1-28-80, Amended 9-8-85, Formerly 6D-3.05.

**6D-3.006 Access to and Confidentiality of Student Records.**

(1) Each Principal or his/her designee maintains a permanent cumulative record for each student enrolled in his/her department. Such record is maintained in the form and contains all data prescribed by regulations of the State Board of Education. The cumulative record is open to inspection only by the Board, the President, the instructional supervisors, the professional staff of the School, the parent(s) or guardian of the student, eligible student, a court of competent jurisdiction, and to such other persons as the parent(s), guardian, or eligible student may authorize in writing.

(2) The term "education records" shall mean those records and documents and other materials which contain information directly related to a student, which are maintained by an educational institution and which are accessible to other professional personnel to facilitate the instructional guidance and educational progress of student's information contained in education records shall be classified as follows:

(a) Category A, permanent information: Verified information of clear educational importance which will be retained indefinitely in the manner prescribed by Section 230.221(2), F.S.

(b) The following information is maintained for each student. The records are under the control of the Principal and are kept current:

1. Student's full name and any kind of changes, such as by marriage or adoption.
2. Authenticated birthdate, place of birth, race and sex
3. Last known address of student.
4. Names of student's parents or guardian.
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled; date withdrawn.
7. Courses taken and record of achievement, such as grades, units or certification of competence.
8. Date of graduation or date of program completion.

(c) Category B, temporary information: Verified information of clear education importance which is subject to change.

(d) These records are under the control of the Principal. The School will establish procedures to assure accuracy of information maintained and provide for periodic review and elimination of information no longer useful in the manner prescribed by Section 230.331(3) F.S. Category B information may be destroyed three (3) years after the student or his/her class graduates. These records may include, but not be limited to: (1) health information; (2) family background data; (3) standardized test scores; (4) educational and vocational plans; (5) personal attributes; (6) honors and activities; (7) work experience including employer ratings; (8) teacher/ counselor comments; (9) reports of special services or exceptional student staffing committees including all information required by Section 230.23(4)(m)6., F.S.; (10) correspondence from community agencies or private professionals; (11) driver education certificate; (12) list of schools attended.

(3) Directory information.

(a) Directory information includes the student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of athletic team members, date of attendance and awards received, and the most recent previous educational agency or institution attended by the student. This directory information may be published annually, as well as from time to time.

(b) Parts of all of the directory information may be published as honor roll lists, team rosters, scholarship recipients, etc.

(c) Parent(s), guardians or the adult student may, within ten (10) days of annual notice of publication of directory information, in writing refuse to have personally identifiable information designated as directory information with respect to the adult student or student (under age 18).

(4) Transfer of records.

(a) Upon request of officials of educational institutions for transfer of a student's record, the student's parent(s) or guardian, or student if he/she is 18 years of age or older, shall be notified of the transfer in the form of a letter to the last known address. Under no condition will the transfer of a student's record(s) be delayed for failure to pay a fine or fee assessed by the School.

(b) When parents are notified of a transfer of the student's record(s), they must also be informed that they are entitled to review the record(s), to a copy of the record(s) if desired, and to a hearing if desired.

(c) The Principal shall transfer a copy of all Category A and Category B information and shall retain a copy of Category A information.

(5) Other transfer situations – permissive transfer requests. With the permission of the parent or guardian, or eligible student, a student's transcript may be sent to the individuals, agencies or organizations, provided that the individuals, agencies or organizations desiring access to the records of a student shall be required to sign a written form, which shall be kept permanently with the student's record, but only for inspection by the student and/or parents, indicating specifically the legitimate educational or other interest that the person, agency or organization has for wanting the record.

(6) Changes on a record. A student's permanent record may not be changed in any manner except by authorization or direction of the Principal. Any change on the record shall bear the signature of the person making the change.

(7) Availability of the record. The student's cumulative record is available only to the Board, the President, the professional staff of the School, the parent or guardian of the student, eligible student, and to such other persons as the parent or guardian may authorize in writing. Nothing contained in this section shall preclude authorized representatives of: the Comptroller General of the United States, the Secretary, an administrative head of an education agency, or state educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of federally-supported education program, or in connection with the enforcement of federal legal requirements which relate to such pro-

grams. Provided, that except when collection or personally identifiable data are specifically authorized by federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained have been collected.

(a) Rights of access.

1. Such parent, guardian, or eligible student shall have the right, upon request directly to the appropriate Principal, to be provided with a list of the types of records and reports, directly related to students, as maintained by the institutions which the student attends or has attended.

2. Such parent, guardian, or eligible student shall have the right, upon request, to be shown any record or report relating to such student maintained by any public educational institution. When the record or report includes information on more than one student, the parent, guardian, or eligible student shall be entitled to receive, or be informed of, only that part of the record or report which pertains to the student who is the subject of the request.

Upon a reasonable request, therefore, the School shall furnish such parent, guardian, or eligible student with an explanation or interpretation of any such record or report in no more than thirty (30) days after request is made.

3. Copies of any list, record, or report requested under the provisions of this paragraph shall be furnished to the parent, guardian, or eligible student upon request at a reasonable cost to be set by the Board.

(b) Right of waiver of access to confidential letters or statements. Such parent, guardian, or eligible student shall have the right to waive the right of access of letters or statements of recommendation or evaluation, except that such waiver shall apply to recommendations or evaluations only if:

1. The parent, guardian, or eligible student is, upon request, notified of the names of all persons submitting confidential letters or statements; and

2. Such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from, any public agency or public educational institution in Florida.

(c) Whenever written consent is required, the School shall presume that the parents, guardians or eligible student giving consent has the authority to do so unless the School has been provided with evidence that there is a legally binding instrument, or state law or court order governing such matters as divorce, separation or custody which provides to the contrary.

(d) The School will provide to parents or eligible students annual notification of their rights to inspect, review, challenge hearing, right of privacy, waiver of access, and/or have copies of their child's record. The notification will be distributed at the beginning of the school year and will be in the language of the parent or eligible student. The notice will appear in the first edition of the School paper on a yearly basis, and all parents will receive a copy of the

Procedural Safeguards in the beginning of the school year registration packet. Parents who do not read English will be furnished audio tapes, foreign language translations or sign language explanations of the Safeguards. The President, Principals, Supervising Teachers and the Child Study Center have copies of the School's policy on educational records. Parents may see copies of these policies upon request. Oral tapes or braille copies will be made available to parents or eligible students who are blind. This notice shall be distributed to all parents at the time of annual School registration.

(e) The School shall comply with a request to review the education records within a reasonable period of time, but in no case more than thirty (30) days after the request is made.

(f) Right of privacy. The Florida School for the Deaf and the Blind will not disclose any personally identifiable information without prior written, dated consent.

1. A student's educational records and all personally identifiable information shall not be released except on the condition that the information being transferred will not be subsequently released to any other party without obtaining the consent of the parent or eligible student, and that the School has written permission from the parent or eligible student to release identifiable information to said agency, etc. (Written permission must be dated.)

2. Released copies of educational records and personally identifiable information must be destroyed when no longer required by the person to whom the information was appropriately released for the purpose stated on release form. The School will maintain a record indicating all parties, other than School officials, who have requested or obtained access to a student's record and purpose for obtaining information.

3. In order to comply with the two sections noted above, all copies of information being released will indicate that the information being released will indicate that the information may not be subsequently released to any other party without the written consent of the parent or eligible student; and that the copies of the information can be destroyed when no longer needed.

(8) Security of record.

(a) The Principal shall develop a procedure to insure the security, and accountability of such records; provided, that under no condition shall the record be removed from the School except by order of the court upon condition that parents or eligible student is notified of such order or subpoena in advance of compliance.

(b) The School must maintain a record indicating all parties, other than School officials, having requested or obtained access to a student's educational record and which will indicate specifically the legitimate interests that each party has in obtaining the information.

(c) Such record of access shall be available only to the parents, eligible student, and persons or organizations as noted in subsection 6D-3.006(1), F.A.C. All records not kept in individual School files shall be the responsibility of the President or his designees.

(9) Challenge to cumulative folder information.

(a) In all instances wherein the accuracy and/or

appropriateness of data contained in student records is challenged, the Principal of the School and appropriate members of his/her staff shall endeavor to resolve the conflict with the complainant(s) at the School level.

(b) In the event such challenge or conflict cannot be satisfactorily resolved, the complainant(s) must be informed of his/her right to a formal hearing. A copy of the procedures for a hearing must also be given to the complainant(s).

1. Procedure for hearing.

a. In the event there is a challenge to the student's records and it is not resolved at the School level, the complainant shall be notified in writing that his/her challenge has been denied. The request for a hearing on the correction or deletion of inaccurate, misleading, or otherwise inappropriate data from the student's records must be made, in writing, to the President or his designee within ten (10) days of notification of decision at School level. The request for hearing shall contain the specific records challenged and reasons they are inaccurate, misleading or otherwise inappropriate.

b. The hearing shall be conducted in not less than fifteen (15) days nor more than thirty (30) days succeeding the date of the request.

c. The President or his qualified designee, shall serve as Chairman of the hearing.

d. The Chairman shall notify all participants in the hearing of the date for said hearing at least five (5) days preceding.

e. The Chairman shall be responsible for the orderly conduct of hearings and receive all information presented in evidence.

f. The hearing shall involve the complainant(s), their representatives, the School Principal, records personnel, and such other School personnel who may provide pertinent information.

g. The hearing shall seek to determine the following:

(I.) The accuracy and appropriateness of the challenged data.

(II.) The value of the challenged data to the educational process.

h. The proceedings of a hearing shall be recorded on tape and shall be transcribed if the complainant(s) request the decision to be reviewed in accordance with the review procedure.

i. The President and/or designated members of his/her staff shall consider the information presented at the hearing and arrive at a decision, to retain the data intact, alter (correct) it, or delete it entirely. Where there is an agreement that a student's record is to be corrected, deleted, or expunged, the agreement shall be in writing, signed and dated by the adult student or the parents or guardians of the student and School Principal or his/her designee and filed with the student's record.

j. Such decision shall be communicated to the complainant(s) by certified mail to be postmarked not later than five (5) days succeeding the decision. The notice shall also inform the complainant(s) of his/her right to request a review of the decision by the Board of Trustees of the School.

k. If review by the Board is desired, the request must be made, in writing, to the President within ten (10) days succeeding the date of the decision.

l. Upon receipt of the request for Board review, the Chairman of the Board shall appoint a reviewing officer.

m. The reviewing officer shall be furnished with a transcript of the initial hearing and such other data as he may request.

n. The reviewing officer shall report his findings and recommendations to the Board within thirty (30) days succeeding receipt of transcript and other requested data.

o. On the basis of the report and recommendation of the reviewing officer, the Board shall issue its decision to retain the data intact, alter (correct) it, or delete it entirely.

p. The decision of the Board shall be final.

q. The parent(s) or guardian or an adult student may place a statement in the education record if the decision of the hearing is that the records are not accurate, misleading or otherwise in violation of privacy. The statement may comment on the information in the education record and set forth any reasons for disagreeing with the decision.

Specific Authority 120.53(1)(b), 242.331(3) FS. Law Implemented 120.53(1)(b), 242.331(4) FS. History—New 1-28-80, Formerly 6D-3.06.

Cf. P. L. 94-142, 20 USC 1401(18), 1412(2), (5), (6), 1414(a)(5), (6), (7), 1415(a), Federal Register Volume 42, Number 163, Regulations 121a.2, 121a.4, 121a.562.

### **6D-3.007 Provision of Non-Academic and Extracurricular Services and Activities.**

(1) The School shall assure that the provision of all non-academic and extracurricular services and activities to all eligible students is made available in the least restrictive environment appropriate to the needs of the student.

(2) In providing or arranging for the provision of non-academic and extracurricular services and activities, including meals, recess periods, counseling services, recreational activities, special interest groups or clubs sponsored by the School, referrals to agencies which provide assistance to handicapped personnel, and employment of students, including both employment by the School and assistance in making outside employment available, the School shall ensure that each student participates with non-handicapped students in those services and activities to the maximum extent appropriate to the needs of that student.

Specific Authority 1002.36(4)(d) FS. Law Implemented 1002.36(4)(d) FS. History—New 1-28-80, Formerly 6D-3.07, Amended 3-22-04.

Cf. P. L. 94-142, 20 USC 1401(18), 1412(2), (5), (6), 1414(a)(5), (6), (7), Federal Register Volume 42, Number 163, Regulations 121a.2, 121a.4, 121a.306.

### **6D-3.008 Discrimination Complaint Procedures for Student Access.**

(1) The following procedures shall be followed by individuals wishing to file complaints regarding issues related to race, sex, national origin, or disability, and shall serve as complaint procedures for Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990.

(2) In complaints relating to admissions to the Florida School for the Deaf and the Blind, the President or designee

nee shall conduct an investigation and render a decision within thirty (30) days of receiving the complaint. A complaint must be filed in writing with the President within thirty (30) calendar days of written notification.

(3) The President has designated the Principal in the Department for the Deaf or Department for the Blind to be responsible for the coordination of investigations and management of complaint procedures initiated by students, parents or guardians.

(4) The procedure is as follows

(a) Students, student applicants, parents or guardians are responsible for filing a written complaint of an alleged incident within sixty (60) calendar days of occurrence.

(b) The Principal shall conduct an appropriate investigation and, in consultation with the President make a final decision within thirty (30) days of the receipt of the filing.

Specific Authority 1002.36(4)(c) FS. Law Implemented 1002.36(4)(d) FS. History—New 6-2-81, Formerly 6D-3.08, Amended 1-19-04.

Cf. Title VI, Civil Rights Act of 1964 (Title 34, Part 100 CFR); Title IX of the Education Amendments of 1972 (Title 34, Part 106 CFR); Section 504, Title V, Rehabilitation Act of 1973 (Title 34, Part 104 CFR).

### **6D-3.010 Confidentiality of Information.**

(1) Definitions.

(a) Confidentiality – The treatment of information relating to students, staff or administration that shall be entrusted only to authorized individuals.

(b) Files shall mean clinical records which are those records, files and data which contain information pertinent to the psychological or medical treatment of a student.

(c) Communication shall mean issues addressed in counseling.

(d) Administration shall mean the President or his designee.

(e) Counseling shall mean an interpersonal process, involving a variety of techniques, to assist the student in overcoming social, emotional or learning difficulties interfering with the educational process or transition to employment. This can be session with certified professional counselor, or in other contexts such as academic advisement, nursing care, dormitory management, etc.

(2) Information contained in personally identifiable records or reports of a pupil or student and any personal information contained therein may be released only to school officials, including teachers within the school who have legitimate educational interests in the information contained in any file or communication as well as the appropriate parties in connection with an emergency, if information in the file is needed to protect the health or safety of the pupil.

(3) Access to Information.

(a) Files shall be restricted to individuals who have need for information to provide for the health, safety, care, welfare and proper discipline of students.

(b) Communication which addresses issues that, in the opinion of the counselor, and after review by the Mental Health Director, constitutes a real and present danger to self or to others in the school community, falls outside the parameters of confidentiality and shall be reported to the Administration. During the establishment of the counseling relationship, and within the student's ability to comprehend, the counselor shall explain these limitations to confidentiali-

ty. A statement to that effect will be inserted in the student's file. Such issues include:

1. Suicidal or harmful threats to self or others.
  2. Sexual misconduct.
  3. Alcohol or drug abuse or the solicitation thereof
  4. Knowledge of actual or suspected child abuse or neglect.
  5. Chronic or repetitive illegal acts.
  6. Exposure to sexually transmitted disease.
- (4) Security of Files.

(a) Files shall not be removed from the custody of the file custodian except by an appropriate staff member or by court order.

(b) Consent for release of files shall be on an authorized FSDB release form, written request from parent(s)/guardian, or official form from other authorized agencies:

1. Request for files shall be submitted to the file custodian.

2. Requests and releases shall become part of the record.

(c) Files shall be stored in a locked room at the end of each working day.

(5) Staff involved as interpreters in student counseling shall respect the privacy of that communication in keeping with the provisions of this rule.

(6) Information specifically prohibited by Florida Statutes or Florida Administrative Code from disclosure to anyone other than the student shall not be disclosed without the consent of the student.

Specific Authority 242.331(3) FS. Law Implemented 242.331(4), 228.093(3)(d) FS. History—New 4-29-91, Amended 10-28-93.



## Chapter 64F-6 School Health Services Program

### 64F-6.001 Definitions.

When used in Chapter 64F-6, the following definitions will apply:

(1) "Consultation" means communication by telephone, in writing, or through personal contact concerning a student's health problem or suspected health problem.

(2) "Family" means the student and others who have an integral role in the care and support of the student such as parents, spouses, non-custodial parents, legal guardians, siblings, grandparents, and foster parents.

(3) "Follow-up" means the contact with a student, family member, or service provider to verify receipt of services, provide clarification, and determine the need for additional assistance.

(4) "Growth and development screening" means the periodic measurement of a student's height and weight to identify abnormal growth and development.

(5) "Non-public schools" means those non-public schools that meet the requirements listed in Section 381.0056(6), F.S.

(6) "Nursing assessment" means the identification of student health needs. This is an entry and on-going process which includes compiling a health history, making observations, monitoring student and family reactions, interviewing to ascertain social and emotional stability and determine resources to meet the stated needs. It may also include making a physical assessment by those nurses who are qualified to provide these assessments.

(7) "Staffing" means the evaluation by designated school and health care providers of a student for placement in an exceptional student program.

(8) "Supplemental School Health Services" means those expanded health, educational and social services provided under the provisions and funding process specified in Section 381.0057, F.S., and Rule 64F-6.008, F.A.C.

(9) "Vision and hearing screening" means the periodic testing of visual and auditory acuity.

Specific Authority 402.32(8) FS. Law Implemented 402.32(5)(a)-(e), (h)-(k), (o), (r) FS. History—New 3-10-85, Formerly 10D-84.14, Amended 4-6-94, 4-25-96, Formerly 10D-84.014.

### 64F-6.002 School Health Services Plan.

(1) The state plan for school health services shall be developed by the department in cooperation with the Department of Education to include, at a minimum, a plan for the delivery of school services; accountability and outcome indicators; strategies for assessing and blending financial resources (both public and private); and establishment of a data system.

(2) The local school health services plans shall include, at a minimum, the following components:

(a) A plan for the delivery of those services listed in ss. 381.0056(5)(a)-(r) and 381.0057, F.S.;

(b) Budget and staffing information;

(c) Number and levels of public and non-public schools and number of students served;

(d) Communicable disease policies;

(e) Immunization policies that, at a minimum, include immunization requirements for schools as listed in Rule 64D-3.011, F.A.C., and Section 232.032, F.S.;

(f) Initial school entry health examination policy;

(g) Health services reporting procedures;

(h) Advisory committee activities and membership; and

(i) School district and county public health unit personnel responsible for coordinating health services.

(j) The local school health services plan shall describe employing or contracting for all health-related staff and the supervision of all school health services personnel regardless of funding source.

1. Protocols for supervision of school health services personnel shall be described in the local school health services plan to assure that such services are provided in accordance with statutory and regulatory requirements and professional standards. These shall be kept on file at the local school district and the county health department (CHD).

2. Decisions regarding medical protocols or standing orders in the delivery of school health services are the responsibility of the CHD medical director in conjunction with district school boards, local school health advisory committees, the school district medical consultant, or the student's private physician.

(3) Each local school health services plan shall be completed biennially and approved and signed by the superintendent of schools, school board chairperson, CHD medical director or administrator and the department's district administrator.

(a) The local school health services plan shall be reviewed each year for the purpose of updating the plan. Amendments shall be signed by the school district superintendent and the CHD medical director or administrator.

(b) The services provided shall be dependent on the statutory requirements, local priorities and availability of resources.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5) FS. History—New 3-10-85, Formerly 10D-84.15, Amended 4-6-94, 4-25-96, Formerly 10D-84.015.

### 64F-6.003 Screening.

(1) Vision screening shall be provided, at a minimum, to students in grades kindergarten, 1, 3 and 6 and students entering Florida schools for the first time in grades kindergarten through 5.

(2) Hearing screening shall be provided, at a minimum, to students in grades kindergarten, 1 and 6; to students entering Florida schools for the first time in grades kindergarten through 5; and optionally to students in grade 3.

(3) Growth and development screening shall be provided, at a minimum, to students in grades 1, 3 and 6 and optionally to students in grade 9.

(4) Scoliosis screening shall be provided, at a minimum, to students in grade 6.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5)(f)-(i) FS. History—New 3-10-85, Formerly 10D-84.16, Amended 4-6-94, Formerly 10D-84.016, Amended 5-11-04.

#### **64F-6.004 Meeting Emergency Health Needs.**

(1) Policies, procedures and protocols for the management of health emergencies shall be in writing and kept on file at the local school district, each school, and the CHD, and include, at a minimum, the following provisions:

(a) An emergency information card, updated annually, shall be completed for each student listing contact person, family physician, allergies, significant health history and permission for emergency care; and

(b) The locations of emergency supplies and equipment and a list of persons currently certified by a nationally recognized certifying agency to provide first aid and cardiopulmonary resuscitation shall be posted in several areas throughout the school plant.

(2) As part of the plan, all employees who staff school health rooms shall be currently certified in first aid and cardiopulmonary resuscitation by a nationally recognized certifying agency. A copy of this certification shall be kept on file in the health room or the school office, and a list of those persons currently certified in first aid and cardiopulmonary resuscitation shall be displayed in the health room, school office, cafeteria, gymnasium, home economics classrooms, industrial arts classrooms, and other areas that pose an increased potential for injuries.

(3) As part of the plan, each school shall ensure that at least two school staff members, excluding health room staff, are currently certified by nationally recognized certifying agencies to provide first aid and cardiopulmonary resuscitation. A copy of this certification shall be kept on file in the health room or the school office, and a list of those persons currently certified in first aid and cardiopulmonary resuscitation shall be displayed in the health room, school office, cafeteria, gymnasium, home economics classrooms, industrial arts classrooms, and other areas that pose an increased potential for injuries.

(4) The school nurse, in cooperation with the school principal or the person designated by the principal or the acting principal, shall assist in the planning for the training of those persons who provide care on a day-to-day basis to students who are ill or injured while on school grounds during school hours.

(5) The school nurse shall monitor the adequacy and expiration date of first aid supplies, emergency equipment and facilities.

(6) The school principal or the person designated by

the principal or the acting principal shall be responsible for assuring that first aid supplies, emergency equipment and facilities are maintained.

(7) All injuries and episodes of sudden illness referred for emergency health treatment shall be documented and reported immediately to the principal or the person designated by the principal or the acting principal.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5)(l) FS. History—New 3-10-85, Formerly 10D-84.17, Amended 4-6-94, Formerly 10D-84.017.

## Appendix

### Rule 6A-6.03018 Exceptional Education Eligibility for Students with Specific Learning Disabilities

#### **6A-6.03018 Exceptional Education Eligibility for Students with Specific Learning Disabilities.**

(1) Definition. A specific learning disability is defined as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. Associated conditions may include, but are not limited to, dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A specific learning disability does not include learning problems that are primarily the result of a visual, hearing, motor, intellectual, or emotional/behavioral disability, limited English proficiency, or environmental, cultural, or economic factors.

(2) General education intervention procedures and activities. In order to ensure that lack of academic progress is not due to lack of appropriate instruction, a group of qualified personnel must consider:

(a) Data that demonstrate that the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general education settings; and

(b) Data-based documentation, which was provided to the student's parent(s) or guardian(s), of repeated measures of achievement at reasonable intervals, graphically reflecting the student's response to intervention during instruction.

(c) General education activities and interventions conducted prior to referral in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraphs (2)(a) and (2)(b) of this rule.

(3) Evaluation. The evaluation procedures shall include the following:

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs specially designed instruction in the following circumstances:

1. The student does not make adequate progress when:

a. Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

b. Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services; and

2. Whenever a referral is made to conduct an evaluation to determine the student's need for specially designed instruction and the existence of a disability.

(b) In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction

and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C. The evaluation must adhere to the timeframe required by paragraph 6A-6.0331(3)(d), F.A.C., unless extended by mutual written agreement of the student's parent(s) or guardian(s) and a group of qualified professionals.

(4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met.

(a) Evidence of specific learning disability. The student's parent(s) or guardian(s) and group of qualified personnel may determine that a student has a specific learning disability if there is evidence of each of the following:

1. When provided with learning experiences and instruction appropriate for the student's chronological age or grade level standards pursuant to Rule 6A-1.09401, F.A.C., the student does not achieve adequately for the student's chronological age or does not meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas based on the review of multiple sources which may include group and/or individual criterion or norm-referenced measures, including individual diagnostic procedures:

- a. Oral expression;
- b. Listening comprehension;
- c. Written expression;
- d. Basic reading skills;
- e. Reading fluency skills;
- f. Reading comprehension;
- g. Mathematics calculation; or
- h. Mathematics problem solving.

2. The student does not make adequate progress to meet chronological age or grade-level standards adopted in Rule 6A-1.09401, F.A.C., in one or more of the areas identified in subparagraph (4)(a)1. of this rule when using one of the following processes:

a. A process based on the student's response to scientific, research-based intervention, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.; or

b. A process based on the student's response to scientific, research-based intervention, and the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards pursuant to Rule 6A-1.09401, F.A.C., or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.

3. The group determines that its findings under paragraph (a) of this subsection are not primarily the result of the following:

- a. A visual, hearing, or motor disability;
- b. Intellectual disability;

- c. Emotional/behavioral disability;
- d. Cultural factors;
- e. Irregular pattern of attendance and/or high mobility rate;
- f. Classroom behavior;
- g. Environmental or economic factors; or
- h. Limited English proficiency.

(b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student's parents or guardians and a group of qualified professionals, which must include, but are not limited to, all of the following:

1. The student's general education teacher; if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her chronological age;
2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including, but not limited to, a school psychologist, speech-language pathologist, or reading specialist; and
3. The district administrator of exceptional student education or designee.

(c) Observation requirement. In determining whether a student needs specially designed instruction and has a specific learning disability, and in order to document the relationship between the student's classroom behavior and academic performance, the group must:

1. Use information from an observation in routine classroom instruction and monitoring of the student's performance that was completed before referral for an evaluation; or
2. Have at least one member of the group conduct an observation of the student's performance in the student's typical learning environment, or in an environment appropriate for a student of that chronological age, after referral for an evaluation and parental or guardian consent has been obtained.

(5) Documentation of determination of eligibility. For a student suspected of having a specific learning disability, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

- (a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection (6) of Rule 6A-6.0331, F.A.C.;
- (b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;
- (c) The educationally relevant medical findings, if any;
- (d) Whether the student has a specific learning disability as evidenced by response to intervention data confirming the following:

1. Performance discrepancy. The student's academic performance is significantly discrepant for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, which include the peer subgroup, classroom, school, district, and state level comparison groups; and

2. Rate of progress. When provided with well-delivered scientific, research-based general education instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the achievement gap with typical peers or academic expectations for the chronological age or grade level in which the student is currently enrolled; and

3. Educational need. The student continues to need interventions that significantly differ in intensity and duration from what can be provided solely through general education resources to make or maintain sufficient progress.

(e) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, intellectual, or emotional/behavioral disability; cultural factors; environmental or economic factors; an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g. number of weeks, minutes per week, sessions per week), and the student-centered data collected; and

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(g) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(6) Implementation.

(a) The district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students, as required by Rule 6A-6.03411, F.A.C., must identify the applicable process described in sub-subparagraphs (4)(a)2.a. and (4)(a)2.b. of this rule on a school-by-school basis.

(b) Effective July 1, 2010, the process specified in sub-subparagraph (4)(a)2.a. becomes the required process and sub-subparagraph (4)(a)2.b. becomes obsolete.

(c) For schools using eligibility process described in sub-subparagraph (4)(a)2.b. until July 1, 2010, a description of the pattern of strengths and weaknesses that is determined by the group to be relevant to the identification of a specific learning disability must be documented in the written summary required by subsection (5) of this rule.

Specific Authority 1001.02(1), (2)(n), 1001.42(4)(1), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.02(2)(n), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c) FS. History—New 7-1-77, Amended 7-2-79, 7-14-82, Formerly 6A-6.3018, Amended 1-11-94, 3-23-09.

