

well, federal law requires documentation in an individual education plan (IEP) or a section 504 plan for students for the following:

- the decision to participate or not in all or part of the state or district assessments of student achievement;
- any individual accommodations in the administration of the assessment that are needed for the student to participate; and
- how the student will be assessed if it is inappropriate for him or her to participate in the assessment even with accommodations.
- **Student Assessment**

In order to earn a regular high school diploma, a student must meet the graduation requirements in s. 232.246, F.S., and earn a passing score on the required test.² Administrative rules provide procedures for considering a special exemption from the graduation test requirements for students with disabilities who want a standard high school diploma. By rule, the Commissioner may grant this exemption under extraordinary circumstances.

To earn a special high school diploma under s. 232.247, F.S., a student³ is not required to meet all the requirements for a standard high school diploma. The student must meet all school board requirements. The IEP must document whether the student is pursuing a course of study leading to a standard or special diploma.

- **Accommodations and statewide assessment instruments**

While student participation in the testing program is mandatory for all students, exceptions may be made by the Commissioner. Current administrative rules allow accommodations to the statewide assessment instruments and procedures for students with disabilities. The term "accommodations" means:

- adjustments to the presentation of the assessment questions;
- method of recording the student's responses to the questions;
- schedule for administration of the assessment; or
- the use of assistive devices to help in administering the test.

As well, allowable accommodations include those that have been used by the student in classroom instruction, as long as they are within the limits in the rule. According to the Department of Education, the accommodations in this rule are consistent with the test administrative manuals for Florida's state assessments. The district school superintendent or his or her designee determines which of these accommodations are allowed for testing. To use any unique accommodation that is not listed in the rule requires the Commissioner's approval.

Statewide assessment accommodations may only be used if they do not alter the underlying content that is being measured or negatively affect the assessment's reliability or validity. The rules provide that the use of these accommodations has no bearing on the type of diploma or certificate issued to the student for completing school.

² In 2002-2003, the 10th grade FCAT replaces the HSCT as the high school graduation test. Section 229.57(3)(c)6., F.S., requires students who were in the 9th grade in 1999-2000 to earn a passing score on the 10th grade FCAT to qualify for a regular high school diploma.

³ This refers to a student who has been properly classified in accordance with administrative rules as "educable mentally handicapped," "trainable mentally handicapped," "hearing impaired," "specific learning disabled," "physically or language impaired," or "emotionally handicapped."

For each eligible student, accommodations must be identified and recorded in the student's IEP or a plan developed under section 504 of the federal Rehabilitation Act. Similarly, the decision to exclude any student with a disability from either statewide or district assessment programs is made by the IEP team and recorded on the IEP. The criteria for excluding the student are:

- the student's demonstrated cognitive ability prevents the student from completing required coursework and achieving the Sunshine State Standards, even with appropriate and allowable course modifications; and
- 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.

These students must be assessed through an alternative assessment procedure that is recorded in the IEP. However, students who are excluded from the state-required graduation test using these criteria are not eligible for a standard high school diploma.

- **Other**

Federal regulations (34 C.F.R. s. 300.507) provide for parents or guardians to appeal individual decisions about testing of the student in the IEP or section 504 plan. Current law (s. 230.23(4)(m), F.S.) prohibits students from receiving special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed as prescribed by the Commissioner's rules. Parents or guardians of exceptional students who are evaluated, placed, or denied placement in a special education program must be notified of each evaluation, placement, or denial and may appeal decisions. The term "exceptional student" is defined in s. 228.041(18), F.S.⁴

III. Effect of Proposed Changes:

Section 1. The bill expresses legislative intent to amend s. 229.05371, F.S., relating to the John M. McKay Scholarship Program for Students with Disabilities.

Section 2. The bill amends s. 232.245, F.S., relating to pupil progression, to require notice by the school district to parents if a student does not participate in the statewide assessment. Specifically, the parent must be told what it means for the student to not participate. As well, the parent must be told what it means for a student to receive instructional modifications that would not be allowed when the student takes statewide assessment tests.

Parents must provide written consent for a student to receive instructional modifications that are not allowed during the statewide assessment tests. Parents must also acknowledge that they understand the implications for the student to receive accommodations.

⁴ The term "exceptional student" means any child or youth who has been determined eligible for a special program in accordance with rules of the Commissioner or the State Board of Education. The term includes students who are gifted and students with disabilities who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and homebound, autistic, developmentally delayed children, ages birth through 5 years, or children with established conditions, ages birth through 2 years.

Section 3. The bill amends s. 229.57, F.S., relating to the student assessment program, to require school districts to provide notice to parents if the student does not participate in the testing program. Also, the parent must be informed of the reasons and implications for this decision. Similarly, if a student is provided with specific accommodations or modifications that are not allowed in the statewide assessment program, the district must provide the parent with written notification. Parents must also be told about the impact of providing these accommodations or modifications on the student's ability to meet expected proficiency levels in reading, writing, and math.

Section 4. The effective date of the bill is upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None anticipated.

C. Government Sector Impact:

There may some minimal costs associated with the parental notification requirements. IEP's are developed by the student's parents and other members of the IEP team. Federal law currently requires documentation in an IEP or a section 504 plan for students for the following: the decision to participate or not in all or part of the state or district assessments of student achievement; any individual accommodations in the administration of the assessment of student achievement that are needed for the student to participate; and how the student will be assessed if it is inappropriate for him or her to participate in the assessment even with accommodations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
