

By the Committee on Education; and Senator Lynn

304-1993-04

1 A bill to be entitled
 2 An act relating to instruction for exceptional
 3 students; amending s. 1003.57, F.S.; providing
 4 guidelines for determining the residency for a
 5 student who receives instruction as an
 6 exceptional student; requiring the student's
 7 state of residence to pay the cost of such
 8 instruction, facilities, and services;
 9 providing responsibilities of the Department of
 10 Education; providing responsibilities of
 11 residential facilities that educate exceptional
 12 students; providing applicability; amending s.
 13 1003.58, F.S.; correcting a cross-reference;
 14 providing an effective date.

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 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. Section 1003.57, Florida Statutes, is
 19 amended to read:

20 1003.57 Exceptional students instruction.--

21 (1) Each district school board shall provide for an
 22 appropriate program of special instruction, facilities, and
 23 services for exceptional students as prescribed by the State
 24 Board of Education as acceptable, including provisions that:

25 (a)~~(1)~~ The district school board provide the necessary
 26 professional services for diagnosis and evaluation of
 27 exceptional students.

28 (b)~~(2)~~ The district school board provide the special
 29 instruction, classes, and services, either within the district
 30 school system, in cooperation with other district school
 31 systems, or through contractual arrangements with approved

1 private schools or community facilities that meet standards
2 established by the commissioner.

3 (c)~~(3)~~ The district school board annually provide
4 information describing the Florida School for the Deaf and the
5 Blind and all other programs and methods of instruction
6 available to the parent of a sensory-impaired student.

7 (d)~~(4)~~ The district school board, once every 3 years,
8 submit to the department its proposed procedures for the
9 provision of special instruction and services for exceptional
10 students.

11 (e)~~(5)~~ No student be given special instruction or
12 services as an exceptional student until after he or she has
13 been properly evaluated, classified, and placed in the manner
14 prescribed by rules of the State Board of Education. The
15 parent of an exceptional student evaluated and placed or
16 denied placement in a program of special education shall be
17 notified of each such evaluation and placement or denial. Such
18 notice shall contain a statement informing the parent that he
19 or she is entitled to a due process hearing on the
20 identification, evaluation, and placement, or lack thereof.
21 Such hearings shall be exempt from the provisions of ss.
22 120.569, 120.57, and 286.011, except to the extent that the
23 State Board of Education adopts rules establishing other
24 procedures and any records created as a result of such
25 hearings shall be confidential and exempt from the provisions
26 of s. 119.07(1). The hearing must be conducted by an
27 administrative law judge from the Division of Administrative
28 Hearings of the Department of Management Services. The
29 decision of the administrative law judge shall be final,
30 except that any party aggrieved by the finding and decision
31 rendered by the administrative law judge shall have the right

1 to bring a civil action in the circuit court. In such an
2 action, the court shall receive the records of the
3 administrative hearing and shall hear additional evidence at
4 the request of either party. In the alternative, any party
5 aggrieved by the finding and decision rendered by the
6 administrative law judge shall have the right to request an
7 impartial review of the administrative law judge's order by
8 the district court of appeal as provided by s. 120.68.
9 Notwithstanding any law to the contrary, during the pendency
10 of any proceeding conducted pursuant to this section, unless
11 the district school board and the parents otherwise agree, the
12 student shall remain in his or her then-current educational
13 assignment or, if applying for initial admission to a public
14 school, shall be assigned, with the consent of the parents, in
15 the public school program until all such proceedings have been
16 completed.

17 (f)~~(6)~~ In providing for the education of exceptional
18 students, the district school superintendent, principals, and
19 teachers shall utilize the regular school facilities and adapt
20 them to the needs of exceptional students to the maximum
21 extent appropriate. Segregation of exceptional students shall
22 occur only if the nature or severity of the exceptionality is
23 such that education in regular classes with the use of
24 supplementary aids and services cannot be achieved
25 satisfactorily.

26 (g)~~(7)~~ In addition to the services agreed to in a
27 student's individual education plan, the district school
28 superintendent shall fully inform the parent of a student
29 having a physical or developmental disability of all available
30 services that are appropriate for the student's disability.

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1 The superintendent shall provide the student's parent with a
2 summary of the student's rights.

3 (2)(a) A student who receives special instruction,
4 facilities, or services as an exceptional student is
5 considered a resident of the state in which the student's
6 parent or guardian is a resident. Such a student's state of
7 residence must pay the cost of such instruction, facilities,
8 and services for a nonresident student who receives
9 instruction in this state as an exceptional student.

10 (b) The Department of Education shall provide to each
11 school district a statement of the specific limitations of the
12 district's financial obligation for exceptional students under
13 federal and state law. The department shall also provide to
14 each school district technical assistance as necessary for
15 developing a local plan to impose on a student's home state
16 the fiscal responsibility for educating a nonresident
17 exceptional student.

18 (c) The Department of Education shall develop a
19 process by which a school district must review the residency
20 of each exceptional student who lives in a residential
21 facility in this state prior to providing services. The
22 residential facility, not the district, is responsible for
23 billing and collecting from a nonresidential student's home
24 state payment for the student's educational and related
25 services.

26 (d) This subsection applies to any nonresident student
27 who receives instruction as an exceptional student in any type
28 of educational facility in this state, including, but not
29 limited to, a public school, a private school, a group home
30 facility as defined in s. 393.063(24), an intensive
31 residential treatment program for children and adolescents as

1 defined in s. 395.002(16), a facility as defined in s.
2 394.455(10), an intermediate care facility for the
3 developmentally disabled or ICF/DD as defined in s.
4 393.063(28) or s. 400.960(12), or a community residential home
5 as defined in s. 419.001(1)(a).

6 Section 2. Subsection (3) of section 1003.58, Florida
7 Statutes, is amended to read:

8 1003.58 Students in residential care facilities.--Each
9 district school board shall provide educational programs
10 according to rules of the State Board of Education to students
11 who reside in residential care facilities operated by the
12 Department of Children and Family Services.

13 (3) The district school board shall have full and
14 complete authority in the matter of the assignment and
15 placement of such students in educational programs. The parent
16 of an exceptional student shall have the same due process
17 rights as are provided under s. 1003.57(1)(e)~~s. 1003.57(5)~~.

18 Section 3. This act shall take effect July 1, 2004.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 SB 1330

23 Under the committee substitute, the new provisions in
24 s. 1003.57, F.S., apply to any nonresident student who receives
25 instruction as an exceptional student in any type of
26 educational facility in Florida, including, but not limited to
27 the following:

28 -a public school;
29 -a private school;
30 -a group home facility, as defined in s.
31 393.063(24), F.S.;

-an intensive residential treatment program for
children and adolescents, as defined s. 395.002(16), F.S.;

-a facility, as defined in s. 394.455(10), F.S.;

-an intermediate care facility for the developmentally
disabled, as defined in ss. 393.063(28) and 400.960(12), F.S.;

or

-a community residential home, as defined in s.
419.001(1)(a), F.S.