

By the Committees on Appropriations; Education; and Senator Lynn

309-2078-04

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 placing authority or parent to pay the cost of
8 such 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. The cost of such
7 instruction, facilities, and services for a nonresident
8 student shall be provided by the placing authority in the
9 student's state of residence, such as a public school entity,
10 other placing authority, or parent. Nonresident students shall
11 not be reported by any school district for FTE funding in the
12 Florida Education Finance Program.

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

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

29 (d) This subsection applies to any nonresident student
30 who receives instruction as an exceptional student in any type
31 of educational facility in this state, including, but not

1 limited to, a public school, a private school, a group home
2 facility as defined in s. 393.063(24), an intensive
3 residential treatment program for children and adolescents as
4 defined in s. 395.002(16), a facility as defined in s.
5 394.455(10), an intermediate care facility for the
6 developmentally disabled or ICF/DD as defined in s.
7 393.063(28) or s. 400.960(12), or a community residential home
8 as defined in s. 419.001(1)(a).

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

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

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

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

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23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 CS for SB 1330

26 The Committee Substitute requires that the parent of a
27 non-resident exceptional education student in Florida is
28 responsible for payment of the cost of the student's
29 instruction if the placement of the student in an educational
30 program in Florida is made by the parent. In addition, the CS
31 states that a school district shall not report a non-resident
student for Florida Education Finance Program funding.