

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

2

3 Section 1. Section 1003.57, Florida Statutes, is
4 amended to read:

5 1003.57 Exceptional students instruction.--

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

10 ~~(a)(1)~~ The district school board provide the necessary
11 professional services for diagnosis and evaluation of
12 exceptional students.

13 ~~(b)(2)~~ The district school board provide the special
14 instruction, classes, and services, either within the district
15 school system, in cooperation with other district school
16 systems, or through contractual arrangements with approved
17 private schools or community facilities that meet standards
18 established by the commissioner.

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

23 ~~(d)(4)~~ The district school board, once every 3 years,
24 submit to the department its proposed procedures for the
25 provision of special instruction and services for exceptional
26 students.

27 ~~(e)(5)~~ No student be given special instruction or
28 services as an exceptional student until after he or she has
29 been properly evaluated, classified, and placed in the manner
30 prescribed by rules of the State Board of Education. The
31 parent of an exceptional student evaluated and placed or

1 | denied placement in a program of special education shall be
2 | notified of each such evaluation and placement or denial. Such
3 | notice shall contain a statement informing the parent that he
4 | or she is entitled to a due process hearing on the
5 | identification, evaluation, and placement, or lack thereof.
6 | Such hearings shall be exempt from the provisions of ss.
7 | 120.569, 120.57, and 286.011, except to the extent that the
8 | State Board of Education adopts rules establishing other
9 | procedures and any records created as a result of such
10 | hearings shall be confidential and exempt from the provisions
11 | of s. 119.07(1). The hearing must be conducted by an
12 | administrative law judge from the Division of Administrative
13 | Hearings of the Department of Management Services. The
14 | decision of the administrative law judge shall be final,
15 | except that any party aggrieved by the finding and decision
16 | rendered by the administrative law judge shall have the right
17 | to bring a civil action in the circuit court. In such an
18 | action, the court shall receive the records of the
19 | administrative hearing and shall hear additional evidence at
20 | the request of either party. In the alternative, any party
21 | aggrieved by the finding and decision rendered by the
22 | administrative law judge shall have the right to request an
23 | impartial review of the administrative law judge's order by
24 | the district court of appeal as provided by s. 120.68.
25 | Notwithstanding any law to the contrary, during the pendency
26 | of any proceeding conducted pursuant to this section, unless
27 | the district school board and the parents otherwise agree, the
28 | student shall remain in his or her then-current educational
29 | assignment or, if applying for initial admission to a public
30 | school, shall be assigned, with the consent of the parents, in
31 |

1 the public school program until all such proceedings have been
2 completed.

3 ~~(f)(6)~~ In providing for the education of exceptional
4 students, the district school superintendent, principals, and
5 teachers shall utilize the regular school facilities and adapt
6 them to the needs of exceptional students to the maximum
7 extent appropriate. Segregation of exceptional students shall
8 occur only if the nature or severity of the exceptionality is
9 such that education in regular classes with the use of
10 supplementary aids and services cannot be achieved
11 satisfactorily.

12 ~~(g)(7)~~ In addition to the services agreed to in a
13 student's individual education plan, the district school
14 superintendent shall fully inform the parent of a student
15 having a physical or developmental disability of all available
16 services that are appropriate for the student's disability.
17 The superintendent shall provide the student's parent with a
18 summary of the student's rights.

19 (2)(a) A student who receives special instruction,
20 facilities, or services as an exceptional student is
21 considered a resident of the state in which the student's
22 parent or guardian is a resident. The cost of such
23 instruction, facilities, and services for a nonresident
24 student shall be provided by the placing authority in the
25 student's state of residence, such as a public school entity,
26 other placing authority, or parent. A school district may not
27 report nonresident students for FTE funding in the Florida
28 Education Finance Program.

29 (b) The Department of Education shall provide to each
30 school district a statement of the specific limitations of the
31 district's financial obligation for exceptional students under

1 federal and state law. The department shall also provide to
2 each school district technical assistance as necessary for
3 developing a local plan to impose on a student's home state
4 the fiscal responsibility for educating a nonresident
5 exceptional student.

6 (c) The Department of Education shall develop a
7 process by which a school district must review the residency
8 of each exceptional student who lives in a residential
9 facility in this state before providing services. The
10 residential facility, not the district, is responsible for
11 billing and collecting from a nonresidential student's home
12 state payment for the student's educational and related
13 services.

14 (d) This subsection applies to any nonresident student
15 who receives instruction as an exceptional student in any type
16 of educational facility in this state, including, but not
17 limited to, a public school, a private school, a group home
18 facility as defined in s. 393.063, an intensive residential
19 treatment program for children and adolescents as defined in
20 s. 395.002, a facility as defined in s. 394.455, an
21 intermediate care facility for the developmentally disabled or
22 ICF/DD as defined in s. 393.063 or s. 400.960, or a community
23 residential home as defined in s. 419.001.

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

26 1003.58 Students in residential care facilities.--Each
27 district school board shall provide educational programs
28 according to rules of the State Board of Education to students
29 who reside in residential care facilities operated by the
30 Department of Children and Family Services.

31

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

6
7 Notwithstanding the provisions herein, the educational program
8 at the Marianna Sunland Center in Jackson County shall be
9 operated by the Department of Education, either directly or
10 through grants or contractual agreements with other public or
11 duly accredited educational agencies approved by the
12 Department of Education.

13 Section 3. Subsections (1), (2), and (3) of section
14 1009.21, Florida Statutes, are amended to read:

15 1009.21 Determination of resident status for tuition
16 purposes.--Students shall be classified as residents or
17 nonresidents for the purpose of assessing tuition in community
18 colleges and state universities.

19 (1) As used in this section, the term:

20 (a) ~~The term~~ "Dependent child" means any person,
21 whether or not living with his or her parent, who is eligible
22 to be claimed by his or her parent as a dependent under the
23 federal income tax code and who receives at least 51 percent
24 of the true cost-of-living expenses from his or her parent.

25 (b) ~~The term~~ "Institution of higher education" means
26 any public community college or state university.

27 (c) A "legal resident" or "resident" means is a person
28 who has maintained his or her residence in this state for the
29 preceding year, has purchased a home which is occupied by him
30 or her as his or her residence, or has established a domicile
31 in this state pursuant to s. 222.17.

1 (d) ~~The term~~ "Parent" means the natural or adoptive
2 parent or legal guardian of a dependent child.

3 (e) A "resident for tuition purposes" means is a
4 person who qualifies as provided in subsection (2) for the
5 in-state tuition rate; a "nonresident for tuition purposes" is
6 a person who does not qualify for the in-state tuition rate.

7 (f) "Initial undergraduate enrollment" means the first
8 day of class at an institution of higher education.

9 (2)(a) To qualify as a resident for tuition purposes:

10 1. A person or, if that person is a dependent child,
11 his or her parent or parents must have established legal
12 residence in this state and must have maintained legal
13 residence in this state for at least 12 months immediately
14 prior to his or her initial undergraduate enrollment at an
15 institution of higher education qualification.

16 2. Every applicant for admission to an institution of
17 higher education shall be required to make a statement as to
18 his or her length of residence in the state and, further,
19 shall establish that his or her presence or, if the applicant
20 is a dependent child, the presence of his or her parent or
21 parents in the state currently is, and during the requisite
22 12-month ~~qualifying~~ period was, for the purpose of maintaining
23 a bona fide domicile, rather than for the purpose of
24 maintaining a mere temporary residence or abode incident to
25 enrollment in an institution of higher education.

26 3. Each institution of higher education must determine
27 whether an applicant who has been granted admission to that
28 institution is a dependent child.

29 4. Each institution of higher education must
30 affirmatively determine that an applicant who has been granted
31 admission to that institution as a Florida resident meets the

1 residency requirements of this section at the time of initial
2 undergraduate enrollment.

3 (b) However, with respect to a dependent child living
4 with an adult relative other than the child's parent, such
5 child may qualify as a resident for tuition purposes if the
6 adult relative is a legal resident who has maintained legal
7 residence in this state for at least 12 months immediately
8 prior to the child's initial undergraduate enrollment at an
9 institution of higher education qualification, provided the
10 child has resided continuously with such relative for the 5
11 years immediately prior to the child's initial undergraduate
12 enrollment at an institution of higher education
13 qualification, during which time the adult relative has
14 exercised day-to-day care, supervision, and control of the
15 child.

16 (c) The legal residence of a dependent child whose
17 parents are divorced, separated, or otherwise living apart
18 will be deemed to be this state if either parent is a legal
19 resident of this state, regardless of which parent is entitled
20 to claim, and does in fact claim, the minor as a dependent
21 pursuant to federal individual income tax provisions.

22 (d) An undergraduate who is classified as a
23 nonresident for tuition purposes may become eligible for
24 reclassification as a resident for tuition purposes only if
25 that individual, or his or her parent if that individual is a
26 dependent child, supports permanent residency in this state by
27 presenting documentation of nontemporary, full-time employment
28 in this state and domicile in this state for 12 months while
29 not enrolled at an institution of higher education.

30 (3) An individual ~~may shall~~ not be classified as a
31 resident for tuition purposes and, thus, is ineligible shall

1 ~~not be eligible~~ to receive the in-state tuition rate until he
2 or she has provided such evidence related to legal residence
3 and its duration or, if that individual is a dependent child,
4 documentation of his or her parent's legal residence and its
5 duration, as well as documentation confirming his or her
6 status as a dependent child, as ~~may be~~ required by law and by
7 officials of the institution of higher education from which he
8 or she seeks the in-state tuition rate.

9 Section 4. Subsection (1) of section 1009.40, Florida
10 Statutes, is amended, and subsection (5) is added to that
11 section, to read:

12 1009.40 General requirements for student eligibility
13 for state financial aid.--

14 (1)(a) The general requirements for eligibility of
15 students for state financial aid awards consist of the
16 following:

17 1. Achievement of the academic requirements of and
18 acceptance at a state university or community college; a
19 nursing diploma school approved by the Florida Board of
20 Nursing; a Florida college, university, or community college
21 which is accredited by an accrediting agency recognized by the
22 State Board of Education; any Florida institution the credits
23 of which are acceptable for transfer to state universities;
24 any career center; or any private career institution
25 accredited by an accrediting agency recognized by the State
26 Board of Education.

27 2. Residency in this state for no less than 1 year
28 preceding the award of aid for a program established pursuant
29 to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54,
30 s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.
31 1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, ~~or~~ s.

1 | 1009.89, or s.1009.891. Residency in this state must be for
2 | purposes other than to obtain an education. Resident status
3 | for purposes of receiving state financial aid awards or
4 | tuition assistance grants shall be determined in the same
5 | manner as resident status for tuition purposes pursuant to s.
6 | 1009.21 and rules of the State Board of Education implementing
7 | s. 1009.21.

8 | 3. Submission of certification attesting to the
9 | accuracy, completeness, and correctness of information
10 | provided to demonstrate a student's eligibility to receive
11 | state financial aid awards. Falsification of such information
12 | shall result in the denial of any pending application and
13 | revocation of any award currently held to the extent that no
14 | further payments shall be made. Additionally, students who
15 | knowingly make false statements in order to receive state
16 | financial aid awards shall be guilty of a misdemeanor of the
17 | second degree subject to the provisions of s. 837.06 and shall
18 | be required to return all state financial aid awards
19 | wrongfully obtained.

20 | (b)1. Eligibility for the renewal of undergraduate
21 | financial aid awards shall be evaluated at the end of the
22 | second semester or third quarter of each academic year. As a
23 | condition for renewal, a student shall:

24 | a. Have earned a minimum cumulative grade point
25 | average of 2.0 on a 4.0 scale; and

26 | b. Have earned, for full-time study, 12 credits per
27 | term or the equivalent for the number of terms for which aid
28 | was received.

29 | 2. A student who earns the minimum number of credits
30 | required for renewal, but who fails to meet the minimum 2.0
31 | cumulative grade point average, may be granted a probationary

1 | award for up to the equivalent of 1 academic year and shall be
2 | required to earn a cumulative grade point average of 2.0 on a
3 | 4.0 scale by the end of the probationary period to be eligible
4 | for subsequent renewal. A student who receives a probationary
5 | award and who fails to meet the conditions for renewal by the
6 | end of his or her probationary period shall be ineligible to
7 | receive additional awards for the equivalent of 1 academic
8 | year following his or her probationary period. Each such
9 | student may, however, reapply for assistance during a
10 | subsequent application period and may be eligible for an award
11 | if he or she has earned a cumulative grade point average of
12 | 2.0 on a 4.0 scale.

13 | 3. A student who fails to earn the minimum number of
14 | credits required for renewal shall lose his or her eligibility
15 | for renewal for a period equivalent to 1 academic year.
16 | However, the student may reapply during a subsequent
17 | application period and may be eligible for an award if he or
18 | she has earned a minimum cumulative grade point average of 2.0
19 | on a 4.0 scale.

20 | 4. Students who receive state student aid and
21 | subsequently fail to meet state academic progress requirements
22 | due to verifiable illness or other emergencies may be granted
23 | an exception from the academic requirements. Such students
24 | shall make a written appeal to the institution. The appeal
25 | shall include a description and verification of the
26 | circumstances. Verification of illness or other emergencies
27 | may include but not be limited to a physician's statement or
28 | written statement of a parent or college official. The
29 | institution shall recommend exceptions with necessary
30 | documentation to the department. The department may accept or
31 | deny such recommendations for exception from the institution.

1 (5) A student who is attending a nonpublic for-profit
2 or nonprofit institution is ineligible to receive more than
3 one state award that is a tuition assistance grant.

4 Section 5. This act shall take effect July 1, 2005.

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7 SENATE SUMMARY

8 Provides guidelines for determining the residency of a
9 student who receives instruction in this state as an
10 exceptional student. Requires the placing authority or
11 parent of a nonresident exceptional student to pay the
12 cost of such instruction, facilities, and services for
13 the student. Provides duties of the Department of
14 Education and of residential facilities that educate
15 exceptional students. Provides applicability. Defines the
16 term "initial undergraduate enrollment" for purposes of
17 determining a postsecondary student's residential status
18 for tuition purposes. Provides duties of institutions of
19 higher education. Provides conditions under which a
20 nonresident undergraduate may be reclassified as a
21 resident of this state. Requires that specified evidence
22 of the legal residence and dependent status of an
23 undergraduate be provided as a prerequisite to
24 classification as a resident for tuition purposes.
25 Provides that a student who attends a nonpublic
26 institution may not receive more than one state-funded
27 tuition assistance grant.