

By the Committee on Children and Families; and Senators Lynn and King

586-1926-05

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 of a

5 student who receives instruction as an

6 exceptional student with a disability;

7 requiring the student's placing authority or

8 parent to pay the cost of such instruction,

9 facilities, and services; providing

10 responsibilities of the Department of

11 Education; providing responsibilities of

12 residential facilities that educate exceptional

13 students with disabilities; providing

14 applicability; amending s. 1003.58, F.S.;

15 correcting a cross-reference; creating s.

16 1003.575, F.S.; requiring the Department of

17 Education to develop an individual education

18 plan form for use in developing and

19 implementing individual education plans for

20 exceptional students; requiring school

21 districts to use the form; providing an

22 effective date.

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

26 Section 1. Section 1003.57, Florida Statutes, is
27 amended to read:

28 1003.57 Exceptional students instruction.--

29 (1) Each district school board shall provide for an
30 appropriate program of special instruction, facilities, and

31

1 services for exceptional students as prescribed by the State
2 Board of Education as acceptable, including provisions that:

3 ~~(a)(1)~~ The district school board provide the necessary
4 professional services for diagnosis and evaluation of
5 exceptional students.

6 ~~(b)(2)~~ The district school board provide the special
7 instruction, classes, and services, either within the district
8 school system, in cooperation with other district school
9 systems, or through contractual arrangements with approved
10 private schools or community facilities that meet standards
11 established by the commissioner.

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

16 ~~(d)(4)~~ The district school board, once every 3 years,
17 submit to the department its proposed procedures for the
18 provision of special instruction and services for exceptional
19 students.

20 ~~(e)(5)~~ A ~~No~~ student may not be given special
21 instruction or services as an exceptional student until after
22 he or she has been properly evaluated, classified, and placed
23 in the manner prescribed by rules of the State Board of
24 Education. The parent of an exceptional student evaluated and
25 placed or denied placement in a program of special education
26 shall be notified of each such evaluation and placement or
27 denial. Such notice shall contain a statement informing the
28 parent that he or she is entitled to a due process hearing on
29 the identification, evaluation, and placement, or lack
30 thereof. Such hearings shall be exempt from the provisions of
31 ss. 120.569, 120.57, and 286.011, except to the extent that

1 | the State Board of Education adopts rules establishing other
2 | procedures and any records created as a result of such
3 | hearings shall be confidential and exempt from the provisions
4 | of s. 119.07(1). The hearing must be conducted by an
5 | administrative law judge from the Division of Administrative
6 | Hearings of the Department of Management Services. The
7 | decision of the administrative law judge shall be final,
8 | except that any party aggrieved by the finding and decision
9 | rendered by the administrative law judge shall have the right
10 | to bring a civil action in the circuit court. In such an
11 | action, the court shall receive the records of the
12 | administrative hearing and shall hear additional evidence at
13 | the request of either party. In the alternative, any party
14 | aggrieved by the finding and decision rendered by the
15 | administrative law judge shall have the right to request an
16 | impartial review of the administrative law judge's order by
17 | the district court of appeal as provided by s. 120.68.
18 | Notwithstanding any law to the contrary, during the pendency
19 | of any proceeding conducted pursuant to this section, unless
20 | the district school board and the parents otherwise agree, the
21 | student shall remain in his or her then-current educational
22 | assignment or, if applying for initial admission to a public
23 | school, shall be assigned, with the consent of the parents, in
24 | the public school program until all such proceedings have been
25 | completed.

26 | (f)~~(6)~~ In providing for the education of exceptional
27 | students, the district school superintendent, principals, and
28 | teachers shall utilize the regular school facilities and adapt
29 | them to the needs of exceptional students to the maximum
30 | extent appropriate. Segregation of exceptional students shall
31 | occur only if the nature or severity of the exceptionality is

1 such that education in regular classes with the use of
2 supplementary aids and services cannot be achieved
3 satisfactorily.

4 ~~(g)(7)~~ In addition to the services agreed to in a
5 student's individual education plan, the district school
6 superintendent shall fully inform the parent of a student
7 having a physical or developmental disability of all available
8 services that are appropriate for the student's disability.
9 The superintendent shall provide the student's parent with a
10 summary of the student's rights.

11 (2)(a) An exceptional student with a disability who
12 resides in a residential facility and receives special
13 instruction or services is considered a resident of the state
14 in which the student's parent or guardian is a resident. The
15 cost of such instruction, facilities, and services for a
16 nonresident student with a disability shall be provided by the
17 placing authority in the student's state of residence, such as
18 a public school entity, other placing authority, or parent. A
19 nonresident student with a disability may not be reported by
20 any school district for FTE funding in the Florida Education
21 Finance Program.

22 (b) The Department of Education shall provide to each
23 school district a statement of the specific limitations of the
24 district's financial obligation for exceptional students with
25 disabilities under federal and state law. The department shall
26 also provide to each school district technical assistance as
27 necessary for developing a local plan to impose on a student's
28 home state the fiscal responsibility for educating a
29 nonresident exceptional student with a disability.

30 (c) The Department of Education shall develop a
31 process by which a school district must, before providing

1 services to an exceptional student with a disability who
2 resides in a residential facility in this state, review the
3 residency of the student. The residential facility, not the
4 district, is responsible for billing and collecting from a
5 nonresidential student's home state payment for the student's
6 educational and related services.

7 (d) This subsection applies to any nonresident student
8 with a disability who resides in a residential facility and
9 who receives instruction as an exceptional student with a
10 disability in any type of residential facility in this state,
11 including, but not limited to, a private school, a group home
12 facility as defined in s. 393.063, an intensive residential
13 treatment program for children and adolescents as defined in
14 s. 395.002, a facility as defined in s. 394.455, an
15 intermediate care facility for the developmentally disabled or
16 ICF/DD as defined in s. 393.063 or s. 400.960, or a community
17 residential home as defined in s. 419.001.

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

20 1003.58 Students in residential care facilities.--Each
21 district school board shall provide educational programs
22 according to rules of the State Board of Education to students
23 who reside in residential care facilities operated by the
24 Department of Children and Family Services.

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

30
31

1 Notwithstanding the provisions herein, the educational program
2 at the Marianna Sunland Center in Jackson County shall be
3 operated by the Department of Education, either directly or
4 through grants or contractual agreements with other public or
5 duly accredited educational agencies approved by the
6 Department of Education.

7 Section 3. Section 1003.575, Florida Statutes, is
8 created to read:

9 1003.575 Individual education plans for exceptional
10 students.--The Department of Education shall develop an
11 individual education plan (IEP) form for use in developing and
12 implementing individual education plans for exceptional
13 students. The IEP form must have a streamlined format and, to
14 provide for the use of an existing IEP form when a student
15 transfers from one school district to another, the IEP form
16 developed by the department shall be used in each school
17 district in the state.

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

19
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 Senate Bill 768

23 Requires the Department of Education to develop a form for an
24 Individual Education Plan which must be used by school
districts for exceptional students.

25 Clarifies that an exceptional student with a disability who
26 resides in a residential facility and receives special
services is considered a resident of the state in which the
27 student's parent or guardian is a resident.

28 Clarifies that students addressed by the bill are exceptional
29 students with disabilities who live in residential facilities,
30 not all exceptional students.
31