

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.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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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  
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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 public school, a private  
 12 school, a group home facility as defined in s. 393.063, an  
 13 intensive residential treatment program for children and  
 14 adolescents as defined in s. 395.002, a facility as defined in  
 15 s. 394.455, an intermediate care facility for the  
 16 developmentally disabled or ICF/DD as defined in s. 393.063 or  
 17 s. 400.960, or a community residential home as defined in s.  
 18 419.001.

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

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

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