

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1313 Students with Disabilities

SPONSOR(S): Schools & Learning Council, Precourt

TIED BILLS: **IDEN./SIM. BILLS:** SB 2700

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	<u>9 Y, 0 N</u>	<u>Gillespie</u>	<u>Ahearn</u>
2) <u>Schools & Learning Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Gillespie</u>	<u>Cobb</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Council Substitute for House Bill 1313 replaces several terms used throughout the Florida K-20 Education Code which have been superseded in common usage within the field of special education. The new terms describe various disabilities for purposes of:

- A requirement that students with disabilities have an equal opportunity to be selected for enrollment in a charter school;
- Student eligibility requirements for the John M. McKay Scholarships for Students with Disabilities Program;
- The definition of “exceptional student” for purposes of public K-12 education;
- Student eligibility requirements for special programs and related services for children with disabilities who are 3 years of age or older (preschool children) and for special programs for children with disabilities who are younger than 3 years of age (infants and toddlers);
- Special high school graduation requirements for students with disabilities; and
- Substitute admission and graduation requirements of public postsecondary educational institutions for students with disabilities.

For example, the council substitute replaces the terms “students with handicapping conditions” and “mental retardation” with the new terms “students with disabilities” and “intellectual disability,” respectively.

The council substitute deletes a provision authorizing district school boards to adopt rules concerning the admission of eligible children 3 years of age or older to special education programs and related services. The council substitute also authorizes the State Board of Education to adopt rules concerning special education and other services for children with disabilities younger than 3 years of age.

The council substitute does not appear to create a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The council substitute does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

The Florida K-20 Education Code¹ uses numerous terms describing various types of disabilities. Several of these terms have been superseded in common usage within the field of special education. For example, the term “mental retardation” has been replaced in common usage by the term “intellectual disability.”²

The federal Individuals with Disabilities Education Act (IDEA) defines a “child with a disability” as follows:

(A) In general

The term “child with a disability” means a child—(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services.

(B) Child aged 3 through 9

The term “child with a disability” for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and (ii) who, by reason thereof, needs special education and related services.³

Some of the terms used in the current IDEA (e.g., mental retardation) have been superseded in common usage within the field of special education.

The IDEA defines the term “individualized education program” or “IEP” as a “written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 1414(d) [of

¹ Chapters 1000-1013, F.S.

² See, e.g., Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, *Intellectual Disability*, at <http://www.cdc.gov/ncbddd/dd/ddmr.htm> (last visited Mar. 25, 2008); American Association on Intellectual and Developmental Disabilities, *Press Release: World’s Oldest Organization on Intellectual Disability Has a Progressive New Name* (Nov. 2, 2006), available at http://www.aaidd.org/About_AAIDD/name_change_PRdreen.htm (last visited Mar. 25, 2008).

³ 20 U.S.C. § 1401(3).

the IDEA].”⁴ In Florida, the Department of Education (DOE) has historically used the term “individual educational plan” when referring to an IEP.⁵

Proposed Changes:

The council substitute replaces several terms used throughout the Florida K-20 Education Code which describe various types of disabilities. The following table displays the new terms established by the council substitute and the corresponding terms used in current law which are being replaced:

Current Term in Florida Law	CS/HB 1313 Proposed Term
Students with handicapping conditions	Students with disabilities
Impaired or learning disabled persons	Persons with learning disabilities
Individual education plan	Individual educational plan
Mental retardation; Mentally handicapped; Trainable mentally handicapped; Profoundly mentally handicapped; or Educable mentally handicapped	Intellectual disability
Physical impairment; or Severely physically handicapped	Orthopedic impairment, traumatic brain injury, or other health impairment
Serious emotional disturbance; or Emotionally handicapped	Emotional or behavioral disability
Autism; or Autistic	Autism spectrum disorder
Hearing impaired	Deaf or hard of hearing
Dual sensory impaired	No change
Profoundly handicapped (includes profoundly mentally handicapped, dual sensory impaired, serious emotional disturbance, and autism)	As listed above by specific disability

The council substitute substitutes the new terms listed in the above table for terms used in current law to describe various disabilities for purposes of:

- A requirement that students with disabilities have an equal opportunity to be selected for enrollment in a charter school;⁶
- Student eligibility requirements for the John M. McKay Scholarships for Students with Disabilities Program;⁷
- The definition of “exceptional student” for purposes of public K-12 education;⁸
- Student eligibility requirements for special programs and related services for children with disabilities who are 3 years of age or older (preschool children)⁹ and for special programs for children with disabilities who are younger than 3 years of age (infants and toddlers);^{10,11}

⁴ 20 U.S.C. § 1401(14).

⁵ See, e.g., Florida Department of Education, *Developing Quality Individual Educational Plans: A Guide for Instructional Personnel and Families* (2000), available at <http://www.fldoe.org/ese/pubxhome.asp> (last visited Mar. 25, 2008); rule 6A-6.03026(4), F.A.C.

⁶ See § 1002.33(10)(f), F.S.

⁷ See § 1002.39(1), F.S.

⁸ See § 1003.01(3)(a), F.S.

⁹ See Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. §§ 1411-1419).

¹⁰ See Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. §§ 1431-1445).

¹¹ See § 1003.21(1)(e), F.S.

- Special high school graduation requirements for students with disabilities;¹² and
- Substitute admission and graduation requirements of public postsecondary educational institutions for students with disabilities.¹³

The council substitute deletes a provision authorizing district school boards to adopt rules concerning the admission of eligible children 3 years of age or older to special education programs and related services. According to DOE, admissions for these special programs and related services are governed by State Board of Education rule and not school board rules.¹⁴

The council substitute also authorizes the State Board of Education to adopt rules concerning special education and other services for children with disabilities younger than 3 years of age (i.e., infants and toddlers).

The council substitute provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends section 1002.33, F.S., revising disability terms in requirement that students with disabilities have an equal opportunity to be selected for enrollment in a charter school.

Section 2. Amends section 1002.39, F.S., revising disability terms in student eligibility requirements for the John M. McKay Scholarships for Students with Disabilities Program.

Section 3. Amends section 1003.01, F.S., revising disability terms in the definition of “exceptional student” for purposes of public K-12 education.

Section 4. Amends section 1003.21, F.S., revising disability terms in student eligibility requirements for special programs and related services for children with disabilities.

Section 5. Amends section 1003.438, F.S., revising disability terms in special high school graduation requirements for students with disabilities.

Section 6. Amends section 1007.02, F.S., revising disability terms in the Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act, which established substitute admission and graduation requirements of public postsecondary educational institutions for students with disabilities.¹⁵

Section 7. Amends section 1007.264, F.S., revising disability terms in substitute admission requirements of public postsecondary educational institutions for students with disabilities.

Section 8. Amends section 1007.265, F.S., revising disability terms in substitute graduation requirements of public postsecondary educational institutions for students with disabilities

Section 9. Provides an effective date of July 1, 2008.

¹² See § 1003.438, F.S.

¹³ See §§ 1007.02(2), 1007.264(1) & 1007.265(1), F.S.

¹⁴ See rule 6A-6.03026, F.A.C.

¹⁵ See §§ 1, 4 & 5, ch. 2003-8, L.O.F. (2003), available at Florida Department of State, http://election.dos.state.fl.us/laws/03laws/ch_2003-008.pdf (last visited Mar. 25, 2008).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The council substitute does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The council substitute authorizes the State Board of Education to adopt rules concerning services for children with disabilities younger than 3 years of age. In addition, DOE reports that the council substitute in effect requires modification of four state board rules.^{16,17}

¹⁶ Florida Department of Education, Government Relations, *2008 Agency Bill Analysis of HB 1313*, 2 (Mar. 10, 2008).

¹⁷ See rules 6-1.0996 (Graduation Requirements for Certain Students with Disabilities), 6A-4.01793 (Specialization Requirements for Endorsement in Severe or Profound Disabilities – Academic Class), 6A-4.01796 (Specialization Requirements for Endorsement in Autism – Academic Class) & 6A-6.03026 (Special Programs for Prekindergarten Children with Disabilities), F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Committee on K-12 adopted four amendments offered by Representative Precourt. The amendments:

- Clarified that students with specific learning disabilities include, but are not limited to, students with dyslexia, dyscalculia, or developmental aphasia;¹⁸
- Revised provisions of the bill for internal consistency by conforming to similar provisions in current law;
- Revised the bill's title to provide notice of changes to the rulemaking authority of the State Board of Education and school districts; and
- Revised the catchline of section 1007.264, F.S., to clarify that the section applies to persons with disabilities and is not restricted to persons with learning disabilities.

On March 25, 2008, the Schools & Learning Council reported the bill favorably as a committee substitute, which incorporates the changes made to HB 1313 by the four amendments adopted by the Committee on K-12, as described above.

¹⁸ According to the Learning Disabilities Association of America, “dyslexia” is reading and related language-based learning disability, “dyscalculia” involves problems with arithmetic and mathematical concepts, and “developmental aphasia” involves trouble understanding spoken language and poor reading comprehension. See Learning Disabilities Association of America, *Learning Disabilities: Signs, Symptoms, and Strategies*, at http://www.ldaamerica.org/aboutld/parents/ld_basics/ld.asp (last visited Mar. 25, 2008).