

20091128e2

1 A bill to be entitled
2 An act relating to the education for children in
3 shelter care or foster care and exceptional students;
4 amending s. 39.0016, F.S.; defining the term
5 "surrogate parent"; requiring the Department of
6 Education and district school boards to access the
7 Florida Safe Families Network to obtain information
8 about children known to the Department of Children and
9 Family Services; providing legislative intent;
10 providing conditions and requirements for district
11 school superintendent or court appointment of a
12 surrogate parent for educational decisionmaking for a
13 child who has or is suspected of having a disability;
14 providing requirements for educational placement;
15 providing requirements relating to qualifications and
16 responsibilities of surrogate parents; limiting
17 liability; amending s. 39.202, F.S.; providing for
18 access to certain records to liaisons between school
19 districts and the Department of Children and Family
20 Services; amending s. 39.402, F.S.; requiring access
21 to a child's medical records and educational records
22 if a child is placed in a shelter; authorizing
23 appointment of a surrogate parent; amending s. 39.701,
24 F.S.; requiring the court and citizen review panel in
25 judicial reviews to consider testimony by a surrogate
26 parent for educational decisionmaking; providing for
27 additional deliberations relating to appointment of an
28 educational decisionmaker; requiring certain
29 documentation relating to the educational setting;

20091128e2

30 amending s. 1003.21, F.S.; providing access to free
31 public education for children known to the department;
32 authorizing a temporary exemption relating to school
33 attendance; amending s. 1003.22, F.S.; authorizing a
34 temporary exemption from school-entry health
35 examinations for children known to the department;
36 amending s. 1003.57, F.S.; providing definitions;
37 requiring the Department of Children and Family
38 Services, the Agency for Health Care Administration,
39 and residential facilities licensed by the Agency for
40 Persons with Disabilities to notify certain school
41 districts following the placement of an exceptional
42 student in a private residential care facility;
43 requiring that an exceptional student be enrolled in
44 school; requiring review of the student's individual
45 educational plan; providing for determining
46 responsibility for educational instruction; requiring
47 the school district to report the student for funding
48 purposes; requiring the Department of Education, in
49 consultation with specified agencies, to develop
50 procedures for the placement of students in
51 residential care facilities; requiring the State Board
52 of Education to adopt rules; requiring a cooperative
53 agreement between the Department of Education and
54 agencies, to be executed on or before January 1, 2010;
55 prescribing conditions and requirements for the
56 agreement; providing an effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

20091128e2

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

Section 1. Section 39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Children known to the department” means children who are found to be dependent or children in shelter care.

(b) “Department” means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(c) “Surrogate parent” means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child’s rights under the Individuals with Disabilities Education Act and this section.

~~(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or failure by the Legislature to provide adequate funding for the achievement of these goals. This section does not require the expenditure of funds to meet the goals established in this section except funds specifically appropriated for such purpose.~~

(2) AGENCY AGREEMENTS.—

20091128e2

88 (a)~~(3)~~ The department shall enter into an agreement with
89 the Department of Education regarding the education and related
90 care of children known to the department. Such agreement shall
91 be designed to provide educational access to children known to
92 the department for the purpose of facilitating the delivery of
93 services or programs to children known to the department. The
94 agreement shall avoid duplication of services or programs and
95 shall provide for combining resources to maximize the
96 availability or delivery of services or programs. The agreement
97 must require the Department of Education to access the
98 department's Florida Safe Families Network to obtain information
99 about children known to the department, consistent with the
100 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
101 1232g.

102 (b)~~(4)~~ The department shall enter into agreements with
103 district school boards or other local educational entities
104 regarding education and related services for children known to
105 the department who are of school age and children known to the
106 department who are younger than school age but who would
107 otherwise qualify for services from the district school board.
108 Such agreements shall include, but are not limited to:

109 1.~~(a)~~ A requirement that the department shall:

110 a.~~1.~~ Enroll children known to the department in school. The
111 agreement shall provide for continuing the enrollment of a child
112 known to the department at the same school, if possible, with
113 the goal of avoiding disruption of education.

114 b.~~2.~~ Notify the school and school district in which a child
115 known to the department is enrolled of the name and phone number
116 of the child known to the department caregiver and caseworker

20091128e2

117 for child safety purposes.

118 ~~c.3.~~ Establish a protocol for the department to share
119 information about a child known to the department with the
120 school district, consistent with the Family Educational Rights
121 and Privacy Act, since the sharing of information will assist
122 each agency in obtaining education and related services for the
123 benefit of the child. The protocol must require the district
124 school boards or other local educational entities to access the
125 department's Florida Safe Families Network to obtain information
126 about children known to the department, consistent with the
127 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
128 1232g.

129 ~~d.4.~~ Notify the school district of the department's case
130 planning for a child known to the department, both at the time
131 of plan development and plan review. Within the plan development
132 or review process, the school district may provide information
133 regarding the child known to the department if the school
134 district deems it desirable and appropriate.

135 ~~2.(b)~~ A requirement that the district school board shall:

136 ~~a.1.~~ Provide the department with a general listing of the
137 services and information available from the district school
138 board, ~~including, but not limited to, the current Sunshine State~~
139 ~~Standards, the Surrogate Parent Training Manual, and other~~
140 ~~resources accessible through the Department of Education or~~
141 ~~local school districts~~ to facilitate educational access for a
142 child known to the department.

143 ~~b.2.~~ Identify all educational and other services provided
144 by the school and school district which the school district
145 believes are reasonably necessary to meet the educational needs

20091128e2

146 of a child known to the department.

147 ~~c.3.~~ Determine whether transportation is available for a
148 child known to the department when such transportation will
149 avoid a change in school assignment due to a change in
150 residential placement. Recognizing that continued enrollment in
151 the same school throughout the time the child known to the
152 department is in out-of-home care is preferable unless
153 enrollment in the same school would be unsafe or otherwise
154 impractical, the department, the district school board, and the
155 Department of Education shall assess the availability of
156 federal, charitable, or grant funding for such transportation.

157 ~~d.4.~~ Provide individualized student intervention or an
158 individual educational plan when a determination has been made
159 through legally appropriate criteria that intervention services
160 are required. The intervention or individual educational plan
161 must include strategies to enable the child known to the
162 department to maximize the attainment of educational goals.

163 ~~3.(e)~~ A requirement that the department and the district
164 school board shall cooperate in accessing the services and
165 supports needed for a child known to the department who has or
166 is suspected of having a disability to receive an appropriate
167 education consistent with the Individuals with Disabilities
168 Education Act and state implementing laws, rules, and
169 assurances. Coordination of services for a child known to the
170 department who has or is suspected of having a disability may
171 include:

172 ~~a.1.~~ Referral for screening.

173 ~~b.2.~~ Sharing of evaluations between the school district and
174 the department where appropriate.

20091128e2

175 ~~c.3.~~ Provision of education and related services
176 appropriate for the needs and abilities of the child known to
177 the department.

178 ~~d.4.~~ Coordination of services and plans between the school
179 and the residential setting to avoid duplication or conflicting
180 service plans.

181 ~~e.5.~~ Appointment of a surrogate parent, consistent with the
182 Individuals with Disabilities Education Act and pursuant to
183 subsection (3), for educational purposes for a child known to
184 the department who qualifies ~~as soon as the child is determined~~
185 ~~to be dependent and without a parent to act for the child. The~~
186 ~~surrogate parent shall be appointed by the school district~~
187 ~~without regard to where the child known to the department is~~
188 ~~placed so that one surrogate parent can follow the education of~~
189 ~~the child known to the department during his or her entire time~~
190 ~~in state custody.~~

191 ~~f.6.~~ For each child known to the department 14 years of age
192 and older, transition planning by the department and all
193 providers, including the department's independent living program
194 staff, to meet the requirements of the local school district for
195 educational purposes.

196 (c) This subsection establishes standards and not rights.
197 This subsection does not require the delivery of any particular
198 service or level of service in excess of existing
199 appropriations. A person may not maintain a cause of action
200 against the state or any of its subdivisions, agencies,
201 contractors, subcontractors, or agents based upon this
202 subsection becoming law or failure by the Legislature to provide
203 adequate funding for the achievement of these standards. This

20091128e2

204 subsection does not require the expenditure of funds to meet the
205 standards established in this subsection except funds
206 specifically appropriated for such purpose.

207 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

208 (a)1. The Legislature finds that disability is a natural
209 part of the human experience and in no way diminishes the right
210 of individuals to participate in or contribute to society.
211 Improving educational results for children with disabilities is
212 an essential element of our public policy of ensuring equality
213 of opportunity, full participation, independent living, and
214 economic self-sufficiency for individuals with disabilities.

215 2. The Legislature also finds that research and experience
216 have shown that the education of children with disabilities can
217 be made more effective by:

218 a. Having high expectations for these children and ensuring
219 their access to the general education curriculum in the regular
220 classroom, to the maximum extent possible.

221 b. Providing appropriate exceptional student education,
222 related services, and aids and supports in the least restrictive
223 environment appropriate for these children.

224 c. Having a trained, interested, and consistent educational
225 decisionmaker for the child when the parent is determined to be
226 legally unavailable or when the foster parent is unwilling, has
227 no significant relationship with the child, or is not trained in
228 the exceptional student education process.

229 3. It is, therefore, the intent of the Legislature that all
230 children with disabilities known to the department, consistent
231 with the Individuals with Disabilities Education Act, have
232 available to them a free, appropriate public education that

20091128e2

233 emphasizes exceptional student education and related services
234 designed to meet their unique needs and prepare them for further
235 education, employment, and independent living and that the
236 rights of children with disabilities are protected.

237 (b)1. Each district school superintendent or dependency
238 court must appoint a surrogate parent for a child known to the
239 department who has or is suspected of having a disability, as
240 defined in s. 1003.01(3), when:

241 a. After reasonable efforts, no parent can be located; or

242 b. A court of competent jurisdiction over a child under
243 this chapter has determined that no person has the authority
244 under the Individuals with Disabilities Education Act, including
245 the parent or parents subject to the dependency action, or that
246 no person has the authority, willingness, or ability to serve as
247 the educational decisionmaker for the child without judicial
248 action.

249 2. A surrogate parent appointed by the district school
250 superintendent or the court must be at least 18 years old and
251 have no personal or professional interest that conflicts with
252 the interests of the student to be represented. Neither the
253 district school superintendent nor the court may appoint an
254 employee of the Department of Education, the local school
255 district, a community-based care provider, the Department of
256 Children and Family Services, or any other public or private
257 agency involved in the education or care of the child as
258 appointment of those persons is prohibited by federal law. This
259 prohibition includes group home staff and therapeutic foster
260 parents. However, a person who acts in a parental role to a
261 child, such as a foster parent or relative caregiver, is not

20091128e2

262 prohibited from serving as a surrogate parent if he or she is
263 employed by such agency, willing to serve, and knowledgeable
264 about the child and the exceptional student education process.
265 The surrogate parent may be a court-appointed guardian ad litem
266 or a relative or nonrelative adult who is involved in the
267 child's life regardless of whether that person has physical
268 custody of the child. Each person appointed as a surrogate
269 parent must have the knowledge and skills acquired by
270 successfully completing training using materials developed and
271 approved by the Department of Education to ensure adequate
272 representation of the child.

273 3. If a guardian ad litem has been appointed for a child,
274 the district school superintendent must first consider the
275 child's guardian ad litem when appointing a surrogate parent.
276 The district school superintendent must accept the appointment
277 of the court if he or she has not previously appointed a
278 surrogate parent. Similarly, the court must accept a surrogate
279 parent duly appointed by a district school superintendent.

280 4. A surrogate parent appointed by the district school
281 superintendent or the court must be accepted by any subsequent
282 school or school district without regard to where the child is
283 receiving residential care so that a single surrogate parent can
284 follow the education of the child during his or her entire time
285 in state custody. Nothing in this paragraph or in rule shall
286 limit or prohibit the continuance of a surrogate parent
287 appointment when the responsibility for the student's
288 educational placement moves among and between public and private
289 agencies.

290 5. For a child known to the department, the responsibility

20091128e2

291 to appoint a surrogate parent resides with both the district
292 school superintendent and the court with jurisdiction over the
293 child. If the court elects to appoint a surrogate parent, notice
294 shall be provided as soon as practicable to the child's school.
295 At any time the court determines that it is in the best
296 interests of a child to remove a surrogate parent, the court may
297 appoint a new surrogate parent for educational decisionmaking
298 purposes for that child.

299 6. The surrogate parent shall continue in the appointed
300 role until one of the following occurs:

301 a. The child is determined to no longer be eligible or in
302 need of special programs, except when termination of special
303 programs is being contested.

304 b. The child achieves permanency through adoption or legal
305 guardianship and is no longer in the custody of the department.

306 c. The parent who was previously unknown becomes known,
307 whose whereabouts were unknown is located, or who was
308 unavailable is determined by the court to be available.

309 d. The appointed surrogate no longer wishes to represent
310 the child or is unable to represent the child.

311 e. The superintendent of the school district in which the
312 child is attending school, the Department of Education contract
313 designee, or the court that appointed the surrogate determines
314 that the appointed surrogate parent no longer adequately
315 represents the child.

316 f. The child moves to a geographic location that is not
317 reasonably accessible to the appointed surrogate.

318 7. The appointment and termination of appointment of a
319 surrogate under this paragraph shall be entered as an order of

20091128e2

320 the court with a copy of the order provided to the child's
321 school as soon as practicable.

322 8. The person appointed as a surrogate parent under this
323 paragraph must:

324 a. Be acquainted with the child and become knowledgeable
325 about his or her disability and educational needs.

326 b. Represent the child in all matters relating to
327 identification, evaluation, and educational placement and the
328 provision of a free and appropriate education to the child.

329 c. Represent the interests and safeguard the rights of the
330 child in educational decisions that affect the child.

331 9. The responsibilities of the person appointed as a
332 surrogate parent shall not extend to the care, maintenance,
333 custody, residential placement, or any other area not
334 specifically related to the education of the child, unless the
335 same person is appointed by the court for such other purposes.

336 10. A person appointed as a surrogate parent shall enjoy
337 all of the procedural safeguards afforded a parent with respect
338 to the identification, evaluation, and educational placement of
339 a student with a disability or a student who is suspected of
340 having a disability.

341 11. A person appointed as a surrogate parent shall not be
342 held liable for actions taken in good faith on behalf of the
343 student in protecting the special education rights of the child.

344 (4)-(5) TRAINING.—The department shall incorporate an
345 education component into all training programs of the department
346 regarding children known to the department. Such training shall
347 be coordinated with the Department of Education and the local
348 school districts. The department shall offer opportunities for

20091128e2

349 education personnel to participate in such training. Such
350 coordination shall include, but not be limited to, notice of
351 training sessions, opportunities to purchase training materials,
352 proposals to avoid duplication of services by offering joint
353 training, and incorporation of materials available from the
354 Department of Education and local school districts into the
355 department training when appropriate. The department training
356 components shall include:

357 (a) Training for surrogate parents to include how an
358 ability to learn of a child known to the department is affected
359 by abuse, abandonment, neglect, and removal from the home.

360 (b) Training for parents in cases in which reunification is
361 the goal, or for preadoptive parents when adoption is the goal,
362 so that such parents learn how to access the services the child
363 known to the department needs and the importance of their
364 involvement in the education of the child known to the
365 department.

366 (c) Training for caseworkers and foster parents to include
367 information on the right of the child known to the department to
368 an education, the role of an education in the development and
369 adjustment of a child known to the department, the proper ways
370 to access education and related services for the child known to
371 the department, and the importance and strategies for parental
372 involvement in education for the success of the child known to
373 the department.

374 (d) Training of caseworkers regarding the services and
375 information available through the Department of Education and
376 local school districts, including, but not limited to, the
377 current Sunshine State Standards, the Surrogate Parent Training

20091128e2

378 Manual, and other resources accessible through the Department of
379 Education or local school districts to facilitate educational
380 access for a child known to the department.

381 Section 2. Paragraph (p) of subsection (2) of section
382 39.202, Florida Statutes, is amended to read:

383 39.202 Confidentiality of reports and records in cases of
384 child abuse or neglect.—

385 (2) Except as provided in subsection (4), access to such
386 records, excluding the name of the reporter which shall be
387 released only as provided in subsection (5), shall be granted
388 only to the following persons, officials, and agencies:

389 (p) An employee of the local school district who is
390 designated as a liaison between the school district and the
391 department pursuant to an interagency agreement required under
392 s. 39.0016 and the principal of a public school, private school,
393 or charter school where the child is a student. Information
394 contained in the records which the liaison or the principal
395 determines are necessary for a school employee to effectively
396 provide a student with educational services may be released to
397 that employee.

398 Section 3. Subsection (11) of section 39.402, Florida
399 Statutes, is amended to read:

400 39.402 Placement in a shelter.—

401 (11) (a) If a child is placed in a shelter pursuant to a
402 court order following a shelter hearing, the court shall require
403 in the shelter hearing order that the parents of the child, or
404 the guardian of the child's estate, if possessed of assets which
405 under law may be disbursed for the care, support, and
406 maintenance of the child, to pay, to the department or

20091128e2

407 institution having custody of the child, fees as established by
408 the department. When the order affects the guardianship estate,
409 a certified copy of the order shall be delivered to the judge
410 having jurisdiction of the guardianship estate. The shelter
411 order shall also require the parents to provide to the
412 department and any other state agency or party designated by the
413 court, within 28 days after entry of the shelter order, the
414 financial information necessary to accurately calculate child
415 support pursuant to s. 61.30.

416 (b) The court shall request that the parents consent to
417 provide access to the child's medical records and provide
418 information to the court, the department or its contract
419 agencies, and any guardian ad litem or attorney for the child.
420 If a parent is unavailable or unable to consent or withholds
421 consent and the court determines access to the records and
422 information is necessary to provide services to the child, the
423 court shall issue an order granting access. The court may also
424 order the parents to ~~The parent or legal guardian shall provide~~
425 all known medical information to the department and to any
426 others granted access under this subsection.

427 (c) The court shall request that the parents consent to
428 provide access to the child's educational records and provide
429 information to the court, the department or its contract
430 agencies, and any guardian ad litem or attorney for the child.
431 If a parent is unavailable or unable to consent or withholds
432 consent and the court determines access to the records and
433 information is necessary to provide services to the child, the
434 court shall issue an order granting access.

435 (d) The court may appoint a surrogate parent or may refer

20091128e2

436 the child to the district school superintendent for appointment
437 of a surrogate parent if the child has or is suspected of having
438 a disability and the parent is unavailable pursuant to s.
439 39.0016(3)(b).

440 Section 4. Subsection (8) of section 39.701, Florida
441 Statutes, is amended to read:

442 39.701 Judicial review.—

443 (8) The court and any citizen review panel shall take into
444 consideration the information contained in the social services
445 study and investigation and all medical, psychological, and
446 educational records that support the terms of the case plan;
447 testimony by the social services agency, the parent, the foster
448 parent or legal custodian, the guardian ad litem or surrogate
449 parent for educational decisionmaking if one has been appointed
450 for the child, and any other person deemed appropriate; and any
451 relevant and material evidence submitted to the court, including
452 written and oral reports to the extent of their probative value.
453 These reports and evidence may be received by the court in its
454 effort to determine the action to be taken with regard to the
455 child and may be relied upon to the extent of their probative
456 value, even though not competent in an adjudicatory hearing. In
457 its deliberations, the court and any citizen review panel shall
458 seek to determine:

459 (a) If the parent was advised of the right to receive
460 assistance from any person or social service agency in the
461 preparation of the case plan.

462 (b) If the parent has been advised of the right to have
463 counsel present at the judicial review or citizen review
464 hearings. If not so advised, the court or citizen review panel

20091128e2

465 shall advise the parent of such right.

466 (c) If a guardian ad litem needs to be appointed for the
467 child in a case in which a guardian ad litem has not previously
468 been appointed or if there is a need to continue a guardian ad
469 litem in a case in which a guardian ad litem has been appointed.

470 (d) Who holds the rights to make educational decisions for
471 the child. If appropriate, the court may refer the child to the
472 district school superintendent for appointment of a surrogate
473 parent or may itself appoint a surrogate parent under the
474 Individuals with Disabilities Education Act and s. 39.0016.(e).

475 ~~(d)~~ The compliance or lack of compliance of all parties
476 with applicable items of the case plan, including the parents'
477 compliance with child support orders.

478 (f)~~(e)~~ The compliance or lack of compliance with a
479 visitation contract between the parent and the social service
480 agency for contact with the child, including the frequency,
481 duration, and results of the parent-child visitation and the
482 reason for any noncompliance.

483 (g)~~(f)~~ The compliance or lack of compliance of the parent
484 in meeting specified financial obligations pertaining to the
485 care of the child, including the reason for failure to comply if
486 such is the case.

487 (h)~~(g)~~ Whether the child is receiving safe and proper care
488 according to s. 39.6012, including, but not limited to, the
489 appropriateness of the child's current placement, including
490 whether the child is in a setting that is as family-like and as
491 close to the parent's home as possible, consistent with the
492 child's best interests and special needs, and including
493 maintaining stability in the child's educational placement, as

20091128e2

494 documented by assurances from the community-based care provider
495 that:

496 1. The placement of the child takes into account the
497 appropriateness of the current educational setting and the
498 proximity to the school in which the child is enrolled at the
499 time of placement.

500 2. The community-based care agency has coordinated with
501 appropriate local educational agencies to ensure that the child
502 remains in the school in which the child is enrolled at the time
503 of placement.

504 (i)~~(h)~~ A projected date likely for the child's return home
505 or other permanent placement.

506 (j)~~(i)~~ When appropriate, the basis for the unwillingness or
507 inability of the parent to become a party to a case plan. The
508 court and the citizen review panel shall determine if the
509 efforts of the social service agency to secure party
510 participation in a case plan were sufficient.

511 (k)~~(j)~~ For a child who has reached 13 years of age but is
512 not yet 18 years of age, the adequacy of the child's preparation
513 for adulthood and independent living.

514 (l)~~(k)~~ If amendments to the case plan are required.
515 Amendments to the case plan must be made under s. 39.6013.

516 Section 5. Paragraph (f) of subsection (1) and paragraph
517 (g) of subsection (4) of section 1003.21, Florida Statutes, are
518 amended to read:

519 1003.21 School attendance.—

520 (1)

521 (f) Homeless children, as defined in s. 1003.01, and
522 children who are known to the department, as defined in s.

20091128e2

523 39.0016, must have access to a free public education and must be
524 admitted to school in the school district in which they or their
525 families live. School districts shall assist homeless children
526 and children who are known to the department to meet the
527 requirements of subsection (4) and s. 1003.22, as well as local
528 requirements for documentation.

529 (4) Before admitting a child to kindergarten, the principal
530 shall require evidence that the child has attained the age at
531 which he or she should be admitted in accordance with the
532 provisions of subparagraph (1)(a)2. The district school
533 superintendent may require evidence of the age of any child whom
534 he or she believes to be within the limits of compulsory
535 attendance as provided for by law. If the first prescribed
536 evidence is not available, the next evidence obtainable in the
537 order set forth below shall be accepted:

538 (g) If none of these evidences can be produced, an
539 affidavit of age sworn to by the parent, accompanied by a
540 certificate of age signed by a public health officer or by a
541 public school physician, or, if neither of these is available in
542 the county, by a licensed practicing physician designated by the
543 district school board, which certificate states that the health
544 officer or physician has examined the child and believes that
545 the age as stated in the affidavit is substantially correct. A
546 homeless child, as defined in s. 1003.01, and a child who is
547 known to the department, as defined in s. 39.0016, shall be
548 given temporary exemption from this section for 30 school days.

549 Section 6. Subsection (1) and paragraph (e) of subsection
550 (5) of section 1003.22, Florida Statutes, are amended to read:
551 1003.22 School-entry health examinations; immunization

20091128e2

552 against communicable diseases; exemptions; duties of Department
553 of Health.—

554 (1) Each district school board and the governing authority
555 of each private school shall require that each child who is
556 entitled to admittance to kindergarten, or is entitled to any
557 other initial entrance into a public or private school in this
558 state, present a certification of a school-entry health
559 examination performed within 1 year prior to enrollment in
560 school. Each district school board, and the governing authority
561 of each private school, may establish a policy that permits a
562 student up to 30 school days to present a certification of a
563 school-entry health examination. A homeless child, as defined in
564 s. 1003.01, and a child who is known to the department, as
565 defined in s. 39.0016, shall be given a temporary exemption for
566 30 school days. Any district school board that establishes such
567 a policy shall include provisions in its local school health
568 services plan to assist students in obtaining the health
569 examinations. However, any child shall be exempt from the
570 requirement of a health examination upon written request of the
571 parent of the child stating objections to the examination on
572 religious grounds.

573 (5) The provisions of this section shall not apply if:

574 (e) An authorized school official issues a temporary
575 exemption, for a period not to exceed 30 school days, to permit
576 a student who transfers into a new county to attend class until
577 his or her records can be obtained. A homeless child, as defined
578 in s. 1003.01, and a child who is known to the department, as
579 defined in s. 39.0016, shall be given a temporary exemption for
580 30 school days. The public school health nurse or authorized

20091128e2

581 private school official is responsible for followup of each such
582 student until proper documentation or immunizations are
583 obtained. An exemption for 30 days may be issued for a student
584 who enters a juvenile justice program to permit the student to
585 attend class until his or her records can be obtained or until
586 the immunizations can be obtained. An authorized juvenile
587 justice official is responsible for followup of each student who
588 enters a juvenile justice program until proper documentation or
589 immunizations are obtained.

590 Section 7. Subsections (3) and (4) are added to section
591 1003.57, Florida Statutes, to read:

592 1003.57 Exceptional students instruction.—

593 (3) (a) For purposes of this subsection and subsection (4),
594 the term:

595 1. "Agency" means the Department of Children and Family
596 Services or its contracted lead agency, the Agency for Persons
597 with Disabilities, and the Agency for Health Care
598 Administration.

599 2. "Exceptional student" means an exceptional student, as
600 defined in s. 1003.01, who has a disability.

601 3. "Receiving school district" means the district in which
602 a private residential care facility is located.

603 4. "Placement" means the funding or arrangement of funding
604 by an agency for all or a part of the cost for an exceptional
605 student to reside in a private residential care facility and the
606 placement crosses school district lines.

607 (b) Within 10 business days after an exceptional student is
608 placed in a private residential care facility by an agency, the
609 agency or private residential care facility licensed by the

20091128e2

610 agency, as appropriate, shall provide written notification of
611 the placement to the school district where the student is
612 currently counted for funding purposes under s. 1011.62 and the
613 receiving school district. The exceptional student shall be
614 enrolled in school and receive a free and appropriate public
615 education, special education, and related services while the
616 notice and procedures regarding payment are pending. This
617 paragraph applies when the placement is for the primary purpose
618 of addressing residential or other noneducational needs and the
619 placement crosses school district lines.

620 (c) Within 10 business days after receiving the
621 notification, the receiving school district must review the
622 student's individual educational plan (IEP) to determine if the
623 student's IEP can be implemented by the receiving school
624 district or by a provider or facility under contract with the
625 receiving school district. The receiving school district shall:

- 626 1. Provide educational instruction to the student;
- 627 2. Contract with another provider or facility to provide
628 the educational instruction;
- 629 3. Contract with the private residential care facility in
630 which the student resides to provide the educational
631 instruction; or
- 632 4. Decline to provide or contract for educational
633 instruction.

634
635 If the receiving school district declines to provide or contract
636 for the educational instruction, the school district in which
637 the legal residence of the student is located shall provide or
638 contract for the educational instruction to the student. The

20091128e2

639 school district that provides educational instruction or
640 contracts to provide educational instruction shall report the
641 student for funding purposes pursuant s. 1011.62.

642 (d)1. The Department of Education, in consultation with the
643 agencies and school districts, shall develop procedures for
644 written notification to school districts regarding the placement
645 of an exceptional student in a residential care facility. The
646 procedures must:

647 a. Provide for written notification of a placement that
648 crosses school district lines; and

649 b. Identify the entity responsible for the notification for
650 each facility that is operated, licensed, or regulated by an
651 agency.

652 2. The State Board of Education shall adopt the procedures
653 by rule pursuant to ss. 120.536(1) and 120.54 and the agencies
654 shall implement the procedures.

655
656 The requirements of paragraphs (c) and (d) do not apply to
657 written agreements among school districts which specify each
658 school district's responsibility for providing and paying for
659 educational services to an exceptional student in a residential
660 care facility. However, each agreement must require a school
661 district to review the student's IEP within 10 business days
662 after receiving the notification required under paragraph (b).

663 (4) The Department of Education and agencies shall enter
664 into an agreement for interagency coordination regarding the
665 placement of exceptional students in residential facilities,
666 consistent with federal law and regulations, on or before
667 January 1, 2010. The agreement shall identify the

20091128e2

668 responsibilities of each party and ensure that students receive
669 special education and related services necessary to receive a
670 free appropriate public education. The agreement shall also
671 establish procedures for:

672 (a) Resolving interagency disputes;

673 (b) Ensuring the provision of services during the pendency
674 of a dispute; and

675 (c) Ensuring continued Medicaid eligibility as deemed
676 appropriate.

677 Section 8. This act shall take effect July 1, 2009.