

This bill substantially amends sections 1002.20, 1002.66, 1003.01 and 1011.62 and creates section 1002.391 of the Florida Statutes.

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

Florida statutes defines “Special education services” that are necessary for an exceptional student to benefit from education and provides a list of specialized instructional services for children with disabilities from which a child’s parent may select that are consistent with the child’s individual educational plan.

Funding

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21. It also authorizes pre-school state grants for children with disabilities, ages 3 through 5. Part C authorizes infant and toddler state grants for early intervention services, for infants and toddlers with disabilities from birth through 36 months.³

Beginning with the 1997-1998 school year, districts were required to complete a matrix of services for every exceptional student at least annually to calculate school district funding based on the intensity of services provided to ESE students.⁴ In 2000, the Florida Education Finance Program (FEFP) for ESE programs was revised to require a matrix for exceptional students funded at the highest level of need, support levels 4 and 5.⁵

Consistent with the services identified through the IEP or IFS, the matrix is used to determine which one of the two cost factors would apply to each eligible exceptional education student and the support level needed. The matrix document contains checklists of services in each of the five

¹ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

² 34 C.F.R. s. 300.149

³ Part C is administered by the Florida Department of Health (DOH), pursuant to s. 391.308, F.S.

⁴ Section 43, ch. 97-307, L.O.F.

⁵ ch. 2000-171, L.O.F. Pursuant to s. 1011.62(1)(c), F.S., the Commissioner of Education must specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors. Levels 1 through 3 represent the lowest level of service. For these students, school districts receive an ESE Guaranteed Allocation in addition to the base funding in the FEFP. The matrix is also used to determine the support levels for these students.

domains (curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication) and a special considerations section. The sum of these domain ratings and any special considerations points corresponds to one of the two cost factors.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) published two reports related to the use of the matrix. The 2003 report concluded that the matrix on which funding is based had not been effectively or consistently implemented by school districts.⁶ To improve the accuracy of district application of the funding matrix and help ensure that state ESE funds are appropriately used, OPPAGA recommended that the DOE and the Florida Diagnostic Learning and Resources System provide additional training to district-level ESE directors on properly implementing the funding matrix. OPPAGA also recommended that the DOE create a stronger accountability system to ensure the accuracy of district classifications of students within the matrix, thereby ensuring correct district funding amounts.

Subsequently, OPPAGA noted that stronger accountability is still needed. Specifically, the report noted that the department had not made changes to its monitoring process to better ensure the accuracy of the highest funded matrix categories. Past department reviews indicate a potential for significant over-funding.⁷ OPPAGA recommended that the DOE provide additional training for personnel who complete the training at the school site and that future editions of the matrix handbook provide needed levels of detail with examples to meet district needs.

Children with Hearing Impairments

Current law provides for a statewide program of universal hearing impairment screening, identification, and follow-up care for newborns and infants.⁸ The law requires licensed hospitals or other state licensed birthing facilities to provide for universal hearing screening for all newborns, prior to discharge from the facility. In the instance of a home birth, the health care provider in attendance is responsible for referral for the hearing screening. The goal is to screen all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development.

Children with disabilities, including those who are deaf or hard-of-hearing, may receive ESE services if they meet specific requirements. Educational options for students with hearing impairments have expanded significantly in the last 30 years in that students are increasingly attending traditional schools and being educated in general education classrooms.⁹ Other developments have changed the classroom experiences of students with hearing impairments in the last three decades as well, including the evolution of implant technology and technologies such as visual or text communication devices and speech-to-print software.

⁶ *Special Report: Exceptional Student Education Population Grows Dramatically; More Accountability and Better Training Needed to Implement Funding Matrix*, OPPAGA Report No. 03-40, July 2003.

⁷ *Steps Taken to Implement the Exceptional Student Education Funding Matrix, But More Monitoring Needed*, OPPAGA Report No. 08-24, April 2008.

⁸ s. 383.145, F.S.

⁹ *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, U.S. Department of Education Institute of Education Sciences National Center for Special Education Research, February 2011.

For a student who is deaf or hard-of-hearing, the IEP or IFS team must consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.¹⁰

III. Effect of Proposed Changes:

Students

A parent would be permitted to enroll a child who is deaf or hard of hearing¹¹ in an auditory-oral education program, which is defined as a program that develops and relies solely on listening skills and uses an implant or assistive hearing device to rely on speech and spoken language skills as the method of communication. A child is eligible for the program if he or she is a resident of the state, has received an implant or assistive hearing device, and is between the ages of 3 and 7 or between the ages of 2 and 7, if the district serves children under 3. The level of services would be determined by the child's IEP or IFS team. The student would be eligible for services until the end of the school year in which he or she is seven years old or reaches grade 2, whichever comes first.

Providers

The bill permits a parent to enroll his or her child in a program at a public or private school that is accredited by OPTION Schools, Inc., or that has a supervisor or a majority of faculty who provides direct services and meet Listening and Spoken Language Specialists (LSLS) certification requirements.

OPTION Schools Inc. is an international coalition of schools offering auditory-oral education for children who are deaf or hard of hearing. To be eligible for membership, a school must meet the following criteria:¹²

- Support the philosophy of listening and spoken language education;
- Operate listening and spoken language classes for children who are deaf and hard of hearing in an exclusively auditory-oral environment; and
- Be approved, licensed, or accredited by a recognized agency.

Member schools may be accredited through the organization's accreditation process.¹³ In the past two years, three schools have been accredited.¹⁴ The Clarke School campus in Jacksonville and the Debbie School are certified by OPTION Schools, Inc., and are in the process of becoming accredited.¹⁵

¹⁰ Rule 6A-6.03028(3)(g)9., F.A.C.

¹¹ See Rule 6A-6.03013, F.A.C., and 20 U.S.C.A. § 1401(3)(A)(i).

¹² OPTION Schools, Inc., by-laws, as of March 3, 2011. See <http://auditoryoralschools.org/gov.aspx>.

¹³ *OPTION Schools Accreditation, 2003*, on file with the committee.

¹⁴ Sunshine Cottage School (Texas), Clarke East School (Boston), and Listen and Talk School (Seattle, Washington). The organization has certified 50 schools in the past. E-mail, March 15, 2011, on file with the committee.

¹⁵ E-mail, March 15, 2011, on file with the committee. The Clarke Schools for Hearing and Speech provide children who are deaf and hard of hearing with listening, learning, and spoken language skills. See <http://www.clarkeschools.org/about/welcome>. The Debbie Institute, a division of the University of Miami Mailman Center

The AG Bell Academy for Listening and Spoken Language is an independently governed, subsidiary corporation of the Alexander Graham Bell Association for the Deaf and Hard of Hearing.¹⁶ The academy certifies individuals as either LSLS auditory-verbal therapists or LSLS auditory-verbal educators.¹⁷ To be eligible for certification, an applicant must meet the eligibility requirements (formal education, credential, professional experience, and post-graduate study), earn approved LSLS continuing education credits, and work with a LSLS-certified mentor before taking the LSLS written test.¹⁸ In order to be certified, an applicant must have a master's degree, or international equivalent post-baccalaureate degree or diploma, in audiology, speech-language pathology, or education of the deaf and hard of hearing.¹⁹ As of March 3, 2011, there were 15 LSLS certified professionals in Florida.²⁰

The number of schools that will meet the accreditation or certification requirements is unknown. The bill does not require schools to meet these requirements. For the 2010-2011 school year, the DOE reported that six of 55 districts contracted with a private provider for an auditory-oral program.²¹ Forty-five districts indicated that they did not have any staff members that meet the LSLS certification requirements.²² According to the DOE, Clay and St. Johns County School Districts have a contract with the Clarke School.²³ Under the contract with St. Johns, the students were age two to nine. Eight of the nine students served were age 5 or younger. In Clay, 11 students were served (eight prekindergarten students, two kindergarten students, and one first grade student).

Specialized instructional services for children with disabilities

The bill provides an additional option for parents of a child with a disability who is eligible for the voluntary prekindergarten program. Under the bill, the parent of a child who is deaf or hard of hearing and who has received an implant or assistive hearing device may choose Listening and Spoken Language specialists to provide specialized education services to the child in an appropriate acoustical environment. These specialized education services must be consistent with the child's individual educational plan. Additionally the bill includes services provided by a certified Listening and Spoken Language specialist to the definition of specialized education services that are necessary for an exceptional student to benefit from education.

Matrix of Services

for Child Development, is a center for early intervention research, training and service and offers an auditory-oral program.

See <http://pediatrics.med.miami.edu/debbie-school/education-services/auditory-oral-education-program>.

¹⁶ See <http://agbell.org/NetCommunity/Document.Doc?id=298>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *2011 Certification Handbook*, available at <http://nc.agbell.org/NetCommunity/Document.Doc?id=638>. An individual seeking certification must hold a current license or credential to practice audiology, speech-language pathology or education of the deaf or hard of hearing in their geographic locale.

²⁰ See <http://agbell.org/NetCommunity/Page.aspx?pid=350>.

²¹ DOE, January 27, 2011, on file with the committee. The survey was conducted between January 17, 2011 and January 21, 2011.

²² *Id.* One district reported that it had LSLS certified staff. Nine reported that it was unknown.

²³ DOE, January 20, 2011. The Clarke Schools for Hearing and Speech is an auditory/oral program, which teaches children to listen and speak, rather than use sign language. Clarke's Jacksonville campus provides a variety of programs and services for children from birth to age 7. See <http://www.clarkeschools.org/>

Under the bill, the Department of Education would review and revise the matrix of services, which is used to determine exceptional education cost factors. The changes would have to be implemented prior to the 2011-2012 school year.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation. The costs related to accreditation are approximately \$5,000.²⁴ Accreditation must be renewed every 5 years.

Individuals who choose to be LSLS certified will incur costs. The LSLS certificate is valid for two years. The certification related fees include:²⁵

Certification Related Fees	Members	Non members
Application and Certification ²⁶	\$295	\$395
Preliminary Review of Academic Background	\$40	\$40
Request for review of continuing education credits	\$20	\$20
Certification Renewal (every two years)	\$120	\$120

C. Government Sector Impact:

Public schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation.

²⁴ E-mail, March 15, 2011, on file with the committee.

²⁵ *Id.*

²⁶ This includes one exam session.

The Department of Education's review of the descriptions of the services and supports included in the matrix of services may impact the FEFP cost factors over time. However, the overall fiscal impact is expected to be insignificant.

VI. Technical Deficiencies:

In public elementary schools, instructional personnel are not generally referred to as "faculty."

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS for CS by Budget Subcommittee on Education Pre-K - 12 Appropriations on April 13, 2011:

The committee substitute adds Listening and Spoken Language specialists and an appropriate acoustical environment for any child who is deaf or hard of hearing who has received an implant or assistive hearing device to the list of special educational services from which a child's parent may select that is consistent with the child's individual educational plan.

CS by Education Pre-K – 12 on March 17, 2011:

The committee substitute corrects a technical reference to the AG Bell Academy for Listening and Spoken Language.

- B. **Amendments:**

None.