

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 260

INTRODUCER: Senators Wise and Sobel

SUBJECT: Deaf and Hard-of-hearing Children

DATE: October 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the Deaf and Hard-of-hearing Children's Educational Bill of Rights. It requires the Department of Education to develop model communication considerations for students who are deaf or hard-of-hearing. The model would become a part of the individual educational plan process for a student who is deaf or hard-of-hearing.

This bill creates an undesignated section of law.

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

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

¹ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446; 34 C.F.R. s. 300.17.

² 34 C.F.R. s. 300.149.

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, a matrix of services is used to determine which one of 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 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.

Children with Hearing Impairments

In the fall of 2010, 3,586 students were identified as deaf or hard-of-hearing.⁶ 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.⁷ 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. Still, according to the U.S. Department of Education:

Despite advances and efforts to improve the outcomes of students with hearing impairments, evidence suggests that these students continue to lag behind their general education peers in academic achievement.⁸

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 Section 7, 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.

⁶ *Membership in Programs for Exceptional Students, 2010-11*, DOE State Student Information Database, Table 1.

⁷ *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.

⁸ *Id.* at 1.

In developing an IEP, the IEP team is required to consider a child's strengths, concerns of the parents for enhancing education, and results of the initial evaluation or most recent evaluation of the child, the academic, developmental, and functional needs of the child, as well as special factors.⁹ For a child who is deaf or hard-of-hearing, current law requires that the IEP team consider:

the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.¹⁰

III. Effect of Proposed Changes:

The bill creates the Deaf and Hard-of-hearing Children's Educational Bill of Rights. The Department of Education, the Florida School for the Deaf and the Blind, and other state agencies, institutions, and political subdivisions are encouraged to draft recommendations to provide hearing impaired children educational access equal to other children, with specific focus on communication. The bill requires these entities to proceed expeditiously.

The Department of Education (DOE) is required to draft and disseminate to all school districts a model template addressing communication considerations for hearing-impaired students, for inclusion in the federally-required individual education plan (IEP) for children with disabilities. As stated above, federal law already requires the IEP team to consider special factors regarding education of hearing-impaired children. These are, specifically, language and communication needs, opportunities for direct communication and instruction with others in the child's language and communication mode, academic level, and full range of needs.¹¹

The bill requires the DOE to provide training at its discretion.

A national agenda encourages states to require individual communication plans as part of the IEP.¹² To date, 15 states have adopted a Deaf Children's Bill of Rights or a Deaf and Hard-of-hearing Bill of Rights.¹³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁹ 20 U.S.C. § 1414(d)(3)(A) and (B).

¹⁰ 20 U.S.C. s. 1414(d)(3)(B)(iv) and Rule 6A-6.03028(3)(g)9., F.A.C.

¹¹ 20 U.S.C. s. 1414(d)(3)(B)(iv) and Rule 6A-6.03028(3)(g)9., F.A.C.

¹² See the website for the National Association of the Deaf, <http://www.nad.org/issues/education/k-12/bill-of-rights>; Last checked October 28, 2011.

¹³ These states are Arkansas, California, Colorado, Delaware, Georgia, Kansas, Louisiana, Montana, New Mexico, North Carolina, Pennsylvania, Rhode Island, South Dakota, Texas and Wisconsin.

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:

None.

C. Government Sector Impact:

The DOE indicates that implementation of this bill would require rule amendment, specifically to Rule 6A-6.03028, F.A.C., Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities. The DOE would have to expend resources in model plan development and dissemination to school districts statewide. There may be some time required to modify the online systems used by school districts regarding IEPs.

Dissemination of the communication model to the school district would probably result in an insignificant fiscal impact. The provision of training appears permissive, and therefore, fiscal impact is indeterminate. Still, if the DOE opts for the training, it would necessitate consultation with a group of experts who specialize in the field.

This bill references training to be accomplished by the DOE, but this bill may also result in training that is school district-directed.

VI. Technical Deficiencies:

The bill uses the terms “deaf and hard-of-hearing” and “deaf or hard-of-hearing” interchangeably. Federal and state law refers to the term “deaf and hard-of-hearing.” It is recommended that the term be made consistent with law.¹⁴ On line 36, it may be more appropriate to capitalize the word “deaf” when referring to a community of persons.

VII. Related Issues:

None.

¹⁴ See s. 1003.01(3)(a), F.S. and 20 U.S.C. § 1414(d)(3)(B)(iv).

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
