

**By** the Committee on Education; and Senators Gardiner and Thrasher

581-02606A-13

20131108c1

1                                   A bill to be entitled  
2           An act relating to exceptional student education;  
3           amending s. 1002.20, F.S.; prohibiting certain actions  
4           with respect to parent meetings with school district  
5           personnel; providing requirements for meetings  
6           relating to exceptional student education and related  
7           services; amending s. 1002.33, F.S.; providing  
8           requirements for the reimbursement of federal funds to  
9           charter schools; amending s. 1002.41, F.S.; requiring  
10          a school district to provide exceptional student  
11          education-related services to certain home education  
12          program students; requiring reporting and funding  
13          through the Florida Education Finance Program;  
14          amending s. 1003.57, F.S.; requiring a school district  
15          to use specified terms to describe the instructional  
16          setting for certain exceptional students; defining the  
17          term "inclusion" for purposes of exceptional student  
18          instruction; providing for determination of  
19          eligibility as an exceptional student; requiring  
20          certain assessments to facilitate inclusive  
21          educational practices for exceptional students;  
22          requiring a district school board to provide parents  
23          with information regarding the funding the school  
24          district receives for exceptional student education;  
25          requiring the school district to provide the  
26          information at the initial meeting of a student's  
27          individual education plan team; creating s. 1003.5715,  
28          F.S.; requiring the use of parental consent forms for  
29          specified actions in a student's individual education

581-02606A-13

20131108c1

30 plan; providing requirements for the consent forms;  
31 providing requirements for changes in a student's  
32 individual education plan; requiring the State Board  
33 of Education to adopt rules; creating s. 1003.572,  
34 F.S.; defining the term "private instructional  
35 personnel"; encouraging the collaboration of public  
36 and private instructional personnel and providing  
37 requirements therefor; amending s. 1003.58, F.S.;  
38 conforming a cross-reference; creating s. 1008.3415,  
39 F.S.; requiring an exceptional student education  
40 center to choose to receive a school grade or school  
41 improvement rating; excluding student assessment data  
42 from the calculation of a home school's grade under  
43 certain circumstances; requiring the State Board of  
44 Education to adopt rules; amending s. 1012.585, F.S.;

45 providing requirements for renewal of a professional  
46 certificate relating to teaching students with  
47 disabilities; authorizing the State Board of Education  
48 to adopt rules; providing an effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Paragraph (a) of subsection (21) of section  
53 1002.20, Florida Statutes, is amended to read:

54 1002.20 K-12 student and parent rights.—Parents of public  
55 school students must receive accurate and timely information  
56 regarding their child's academic progress and must be informed  
57 of ways they can help their child to succeed in school. K-12  
58 students and their parents are afforded numerous statutory

581-02606A-13

20131108c1

59 rights including, but not limited to, the following:

60 (21) PARENTAL INPUT AND MEETINGS.—

61 (a) *Meetings with school district personnel.*—Parents of  
62 public school students may be accompanied by another adult of  
63 their choice at any meeting with school district personnel.  
64 School district personnel may not object to the attendance of  
65 such adult or discourage or attempt to discourage, through any  
66 action, statement, or other means, parents from inviting another  
67 person of their choice to attend any meeting. Such prohibited  
68 actions include, but are not limited to, attempted or actual  
69 coercion or harassment of parents or students or retaliation or  
70 threats of consequences to parents or students.

71 1. Such meetings include, but not are not limited to,  
72 meetings related to: the eligibility for exceptional student  
73 education or related services; the development of an individual  
74 family support plan (IFSP); the development of an individual  
75 education plan (IEP); the development of a 504 accommodation  
76 plan issued under s. 504 of the Rehabilitation Act of 1973; the  
77 transition of a student from early intervention services to  
78 other services; the development of postsecondary goals for a  
79 student and the transition services needed to reach those goals;  
80 and other issues that may affect a student's educational  
81 environment, discipline, or placement.

82 2. The parents and school district personnel attending the  
83 meeting shall sign a document at the meeting's conclusion which  
84 states whether any school district personnel have prohibited,  
85 discouraged, or attempted to discourage the parents from  
86 inviting a person of their choice to the meeting.

87 Section 2. Paragraph (c) of subsection (17) of section

581-02606A-13

20131108c1

88 1002.33, Florida Statutes, is amended to read:

89 1002.33 Charter schools.—

90 (17) FUNDING.—Students enrolled in a charter school,  
91 regardless of the sponsorship, shall be funded as if they are in  
92 a basic program or a special program, the same as students  
93 enrolled in other public schools in the school district. Funding  
94 for a charter lab school shall be as provided in s. 1002.32.

95 (c) If the district school board is providing programs or  
96 services to students funded by federal funds, any eligible  
97 students enrolled in charter schools in the school district  
98 shall be provided federal funds for the same level of service  
99 provided students in the schools operated by the district school  
100 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all  
101 charter schools shall receive all federal funding for which the  
102 school is otherwise eligible, including Title I funding, not  
103 later than 5 months after the charter school first opens and  
104 within 5 months after any subsequent expansion of enrollment.  
105 Unless otherwise mutually agreed to by the charter school and  
106 its sponsor, and consistent with state and federal rules and  
107 regulations governing the use and disbursement of federal funds,  
108 the sponsor shall reimburse the charter school on a monthly  
109 basis for all invoices submitted by the charter school for  
110 federal funds available to the sponsor for the benefit of the  
111 charter school, the charter school's students, and the charter  
112 school's students as public school students in the school  
113 district. Such federal funds include, but are not limited to,  
114 Title I, Title II, and Individuals with Disabilities Education  
115 Act (IDEA) funds. To receive timely reimbursement for an  
116 invoice, the charter school must submit the invoice to the

581-02606A-13

20131108c1

117 sponsor at least 30 days before the monthly date of  
118 reimbursement set by the sponsor. In order to be reimbursed, any  
119 expenditures made by the charter school must comply with all  
120 applicable state rules and federal regulations, including, but  
121 not limited to, the applicable federal Office of Management and  
122 Budget Circulars, the federal Education Department General  
123 Administrative Regulations, and program-specific statutes,  
124 rules, and regulations. Such funds may not be made available to  
125 the charter school until a plan is submitted to the sponsor for  
126 approval of the use of the funds in accordance with applicable  
127 federal requirements. The sponsor has 30 days to review and  
128 approve any plan submitted pursuant to this paragraph.

129 Section 3. Subsection (10) is added to section 1002.41,  
130 Florida Statutes, to read:

131 1002.41 Home education programs.—

132 (10) A school district shall provide exceptional student  
133 education-related services, as defined in State Board of  
134 Education rule, to a home education program student with a  
135 disability who is eligible for the services and who enrolls in a  
136 public school for the purpose of receiving those related  
137 services. The school district providing the services shall  
138 report each such student as a full-time equivalent student in a  
139 manner prescribed by the Department of Education, and funding  
140 shall be provided through the Florida Education Finance Program  
141 pursuant to s. 1011.62.

142 Section 4. Subsection (1) of section 1003.57, Florida  
143 Statutes, is amended to read:

144 1003.57 Exceptional students instruction.—

145 (1) (a) For purposes of providing exceptional student

581-02606A-13

20131108c1

146 instruction under this section:

147 1. A school district shall use the following terms to  
148 describe the instructional setting for a student with a  
149 disability, 6 through 21 years of age, who is not educated in a  
150 setting accessible to all children who are together at all  
151 times:

152 a. "Exceptional student education center" or "special day  
153 school" means a separate public school to which nondisabled  
154 peers do not have access.

155 b. "Other separate environment" means a separate private  
156 school, residential facility, or hospital or homebound program.

157 c. "Regular class" means a class in which a student spends  
158 80 percent or more of the school week with nondisabled peers.

159 d. "Resource room" means a classroom in which a student  
160 spends between 40 percent to 80 percent of the school week with  
161 nondisabled peers.

162 e. "Separate class" means a class in which a student spends  
163 less than 40 percent of the school week with nondisabled peers.

164 2. A school district shall use the term "inclusion" to mean  
165 that a student is receiving education in a general education  
166 regular class setting, reflecting natural proportions and age-  
167 appropriate heterogeneous groups in core academic and elective  
168 or special areas within the school community; a student with a  
169 disability is a valued member of the classroom and school  
170 community; the teachers and administrators support universal  
171 education and have knowledge and support available to enable  
172 them to effectively teach all children; and a student is  
173 provided access to technical assistance in best practices,  
174 instructional methods, and supports tailored to the student's

581-02606A-13

20131108c1

175 needs based on current research.

176 (b) Each district school board shall provide for an  
177 appropriate program of special instruction, facilities, and  
178 services for exceptional students as prescribed by the State  
179 Board of Education as acceptable, including provisions that:

180 1. The district school board provide the necessary  
181 professional services for diagnosis and evaluation of  
182 exceptional students.

183 2. The district school board provide the special  
184 instruction, classes, and services, either within the district  
185 school system, in cooperation with other district school  
186 systems, or through contractual arrangements with approved  
187 private schools or community facilities that meet standards  
188 established by the commissioner.

189 3. The district school board annually provide information  
190 describing the Florida School for the Deaf and the Blind and all  
191 other programs and methods of instruction available to the  
192 parent of a sensory-impaired student.

193 4. The district school board, once every 3 years, submit to  
194 the department its proposed procedures for the provision of  
195 special instruction and services for exceptional students.

196 (c) ~~(b)~~ A student may not be given special instruction or  
197 services as an exceptional student until after he or she has  
198 been properly evaluated and found eligible as an exceptional  
199 student, ~~classified, and placed~~ in the manner prescribed by  
200 rules of the State Board of Education. The parent of an  
201 exceptional student evaluated and found eligible or ineligible  
202 ~~placed or denied placement in a program of special education~~  
203 shall be notified of each such evaluation and determination

581-02606A-13

20131108c1

204 ~~placement or denial~~. Such notice shall contain a statement  
205 informing the parent that he or she is entitled to a due process  
206 hearing on the identification, evaluation, and eligibility  
207 determination ~~placement~~, or lack thereof. Such hearings are  
208 exempt from ss. 120.569, 120.57, and 286.011, except to the  
209 extent that the State Board of Education adopts rules  
210 establishing other procedures. Any records created as a result  
211 of such hearings are confidential and exempt from s. 119.07(1).  
212 The hearing must be conducted by an administrative law judge  
213 from the Division of Administrative Hearings pursuant to a  
214 contract between the Department of Education and the Division of  
215 Administrative Hearings. The decision of the administrative law  
216 judge is final, except that any party aggrieved by the finding  
217 and decision rendered by the administrative law judge has the  
218 right to bring a civil action in the state circuit court. In  
219 such an action, the court shall receive the records of the  
220 administrative hearing and shall hear additional evidence at the  
221 request of either party. In the alternative, in hearings  
222 conducted on behalf of a student who is identified as gifted,  
223 any party aggrieved by the finding and decision rendered by the  
224 administrative law judge has the right to request a review of  
225 the administrative law judge's order by the district court of  
226 appeal as provided in s. 120.68.

227 (d) ~~(e)~~ Notwithstanding any law to the contrary, during the  
228 pendency of any proceeding conducted pursuant to this section,  
229 unless the district school board and the parents otherwise  
230 agree, the student shall remain in his or her then-current  
231 educational assignment or, if applying for initial admission to  
232 a public school, shall be assigned, with the consent of the



581-02606A-13

20131108c1

233 parents, in the public school program until all such proceedings  
234 have been completed.

235 (e)~~(d)~~ In providing for the education of exceptional  
236 students, the district school superintendent, principals, and  
237 teachers shall utilize the regular school facilities and adapt  
238 them to the needs of exceptional students to the maximum extent  
239 appropriate. To the extent appropriate, students with  
240 disabilities, including those students in public or private  
241 institutions or other facilities, shall be educated with  
242 students who are not disabled. Segregation of exceptional  
243 students shall occur only if the nature or severity of the  
244 exceptionality is such that education in regular classes with  
245 the use of supplementary aids and services cannot be achieved  
246 satisfactorily.

247 (f) Once every 3 years, each school district and school  
248 shall complete a Best Practices in Inclusive Education (BPIE)  
249 assessment with a Florida Inclusion Network facilitator and  
250 include the results of the BPIE assessment and all planned  
251 short-term and long-term improvement efforts in the school  
252 district's exceptional student education policies and  
253 procedures. BPIE is an internal assessment process designed to  
254 facilitate the analysis, implementation, and improvement of  
255 inclusive educational practices at the district and school team  
256 levels.

257 (g)~~(e)~~ In addition to the services agreed to in a student's  
258 individual educational plan, the district school superintendent  
259 shall fully inform the parent of a student having a physical or  
260 developmental disability of all available services that are  
261 appropriate for the student's disability. The superintendent

581-02606A-13

20131108c1

262 shall provide the student's parent with a summary of the  
263 student's rights.

264 (h)~~(f)~~ School personnel may consider any unique  
265 circumstances on a case-by-case basis when determining whether a  
266 change in placement is appropriate for a student who has a  
267 disability and violates a district school board's code of  
268 student conduct. School personnel may remove and place such  
269 student in an interim alternative educational setting for not  
270 more than 45 school days, without regard to whether the behavior  
271 is determined to be a manifestation of the student's disability,  
272 if the student:

273 1. Carries a weapon to or possesses a weapon at school, on  
274 school premises, or at a school function under the jurisdiction  
275 of the school district;

276 2. Knowingly possesses or uses illegal drugs, or sells or  
277 solicits the sale of a controlled substance, while at school, on  
278 school premises, or at a school function under the jurisdiction  
279 of the school district; or

280 3. Has inflicted serious bodily injury upon another person  
281 while at school, on school premises, or at a school function  
282 under the jurisdiction of the school district.

283 (i)~~(g)~~ For purposes of paragraph (h)~~(f)~~, the term:

284 1. "Controlled substance" means a drug or other substance  
285 identified under Schedule I, Schedule II, Schedule III, Schedule  
286 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.  
287 812(c) and s. 893.02(4).

288 2. "Weapon" means a device, instrument, material, or  
289 substance, animate or inanimate, which is used for, or is  
290 readily capable of, causing death or serious bodily injury;

581-02606A-13

20131108c1

291 however, this definition does not include a pocketknife having a  
292 blade that is less than 2 1/2 inches in length.

293 (j) The district school board shall provide each parent  
294 with information regarding the amount that the school district  
295 receives from the state appropriation for each of the five  
296 exceptional student education support levels for a full-time  
297 student. The school district shall provide this information at  
298 the initial meeting of a student's individual education plan  
299 team.

300 Section 5. Section 1003.5715, Florida Statutes, is created  
301 to read:

302 1003.5715 Parental consent; individual education plan.-

303 (1) The Department of Education shall adopt separate  
304 parental consent forms that school districts must use for each  
305 of the following actions in a student's individual education  
306 plan (IEP):

307 (a) Administer to the student an alternate assessment  
308 pursuant to s. 1008.22 and provide instruction in the state  
309 standards access points curriculum.

310 (b) Place the student in an exceptional student education  
311 center.

312 (2) In accordance with 34 C.F.R. s. 300.503, each form  
313 shall be provided to the parent in the parent's native language,  
314 as defined in 34 C.F.R. s. 300.29, and include the following:

315 (a) A statement that the parent is a participant of the  
316 individual education plan team (IEP Team) and has the right to  
317 consent or refuse consent to the actions described in subsection  
318 (1). The statement shall include information that the refusal of  
319 parental consent means that the school district may not proceed

581-02606A-13

20131108c1

320 with the actions described in subsection (1) without a school  
321 district due process hearing in accordance with 34 C.F.R. ss.  
322 300.507 and 300.508.

323 (b) A "does consent" box and a signature line.

324 (c) A "does not consent" box and a signature line.

325 (d) An informational statement of the benefits and  
326 consequences of giving parental consent to the actions described  
327 in subsection (1).

328 (3) A school district may not proceed with the actions  
329 described in subsection (1) without parental consent unless the  
330 school district documents reasonable efforts to obtain the  
331 parent's consent and the child's parent has failed to respond or  
332 the school district obtains approval through a due process  
333 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and  
334 resolution of appeals.

335 (4) Except for a change in placement described in s.  
336 1003.57(1)(h), if a school district determines that there is a  
337 need to change an exceptional student's IEP as it relates to  
338 actions described in subsection (1), the school must hold an IEP  
339 Team meeting that includes the parent to discuss the reason for  
340 the change. The school shall provide written notice of the  
341 meeting to the parent at least 10 days before the meeting,  
342 indicating the purpose, time, and location of the meeting and  
343 who, by title or position, will attend the meeting. The IEP Team  
344 meeting requirement may be waived by informed consent of the  
345 parent after the parent receives the written notice.

346 (5) For a change in actions described in subsection (1) in  
347 a student's IEP, the school district may not implement the  
348 change without parental consent unless the school district

581-02606A-13

20131108c1

349 documents reasonable efforts to obtain the parent's consent and  
350 the child's parent has failed to respond or the school district  
351 obtains approval through a due process hearing in accordance  
352 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of  
353 appeals.

354 (6) Pursuant to 34 C.F.R. s. 300.518, during the pendency  
355 of a due process hearing or appellate proceeding regarding a due  
356 process complaint, the student shall remain in his or her  
357 current educational assignment while awaiting the decision of  
358 any impartial due process hearing or court proceeding, unless  
359 the parent and the district school board otherwise agree.

360 (7) This section does not abrogate any parental right  
361 identified in the Individuals with Disabilities Education Act  
362 (IDEA) and its implementing regulations.

363 (8) The State Board of Education shall adopt rules pursuant  
364 to ss. 120.536(1) and 120.54 to implement this section,  
365 including, but not limited to, developing parental consent  
366 forms.

367 Section 6. Section 1003.572, Florida Statutes, is created  
368 to read:

369 1003.572 Collaboration of public and private instructional  
370 personnel.—

371 (1) As used in this section, the term "private  
372 instructional personnel" means:

373 (a) Individuals certified under s. 393.17 or licensed under  
374 chapter 490 or chapter 491 for applied behavior analysis  
375 services as defined in ss. 627.6686 and 641.31098.

376 (b) Speech-language pathologists licensed under s.  
377 468.1185.

581-02606A-13

20131108c1

378 (c) Occupational therapists licensed under part III of  
379 chapter 468.

380 (d) Physical therapists licensed under chapter 486.

381 (e) Psychologists licensed under chapter 490.

382 (f) Clinical social workers licensed under chapter 491.

383 (2) The collaboration of public and private instructional  
384 personnel shall be designed to enhance but not supplant the  
385 school district's responsibilities under the Individuals with  
386 Disabilities Education Act (IDEA). The school as the local  
387 education agency shall provide therapy services to meet the  
388 expectations provided in federal law and regulations and state  
389 statutes and rules. Collaboration of public and private  
390 instructional personnel will work to promote educational  
391 progress and assist students in acquiring essential skills,  
392 including, but not limited to, readiness for pursuit of higher  
393 education goals or employment. Where applicable, public and  
394 private instructional personnel shall undertake collaborative  
395 programming. Coordination of services and plans between a public  
396 school and private instructional personnel is encouraged to  
397 avoid duplication or conflicting services or plans.

398 (3) Private instructional personnel who are hired or  
399 contracted by parents to collaborate with public instructional  
400 personnel must be permitted to observe the student in the  
401 educational setting, collaborate with instructional personnel in  
402 the educational setting, and provide services in the educational  
403 setting according to the following requirements:

404 (a) The student's public instructional personnel and  
405 principal consent to the time and place.

406 (b) The private instructional personnel satisfy the

581-02606A-13

20131108c1

407 requirements of s. 1012.32 or s. 1012.321.

408 (4) The provision of private instructional personnel by a  
409 parent does not constitute a waiver of the student's or parent's  
410 right to a free and appropriate public education under IDEA.

411 Section 7. Subsection (3) of section 1003.58, Florida  
412 Statutes, is amended to read:

413 1003.58 Students in residential care facilities.—Each  
414 district school board shall provide educational programs  
415 according to rules of the State Board of Education to students  
416 who reside in residential care facilities operated by the  
417 Department of Children and Family Services or the Agency for  
418 Persons with Disabilities.

419 (3) The district school board shall have full and complete  
420 authority in the matter of the assignment and placement of such  
421 students in educational programs. The parent of an exceptional  
422 student shall have the same due process rights as are provided  
423 under s. 1003.57(1)(c) ~~1003.57(1)(b)~~.

424

425 Notwithstanding the provisions herein, the educational program  
426 at the Marianna Sunland Center in Jackson County shall be  
427 operated by the Department of Education, either directly or  
428 through grants or contractual agreements with other public or  
429 duly accredited educational agencies approved by the Department  
430 of Education.

431 Section 8. Section 1008.3415, Florida Statutes, is created  
432 to read:

433 1008.3415 School grade or school improvement rating for  
434 exceptional student education centers.—

435 (1) Each exceptional student education center shall choose

581-02606A-13

20131108c1

436 to receive a school grade pursuant to s. 1008.34 or a school  
437 improvement rating pursuant to s. 1008.341.

438 (2) Notwithstanding s. 1008.34(3)(c)3., the achievement  
439 scores and learning gains of a student with a disability who  
440 attends an exceptional student education center and has not been  
441 enrolled in or attended a public school other than an  
442 exceptional student education center for grades K-12 within the  
443 school district shall not be included in the calculation of the  
444 home school's grade if the student is identified as an emergent  
445 student on the alternate assessment tool described in s.  
446 1008.22(3)(c)13.

447 (3) The State Board of Education shall adopt rules under  
448 ss. 120.536(1) and 120.54 to implement this section, including,  
449 but not limited to, defining exceptional student education  
450 centers.

451 Section 9. Paragraph (e) is added to subsection (3) of  
452 section 1012.585, Florida Statutes, and subsection (6) is added  
453 to that section, to read:

454 1012.585 Process for renewal of professional certificates.-

455 (3) For the renewal of a professional certificate, the  
456 following requirements must be met:

457 (e) Beginning July 1, 2014, an applicant for renewal of a  
458 professional certificate must earn a minimum of 1 college credit  
459 or the equivalent inservice points in the area of instruction  
460 for teaching students with disabilities. The requirement in this  
461 paragraph may not add to the total hours required by the  
462 department for continuing education or inservice training.

463 (6) The State Board of Education may adopt rules under ss.  
464 120.536(1) and 120.54 to implement this section, including, but



581-02606A-13

20131108c1

465 not limited to, applicant renewal requirements.

466 Section 10. This act shall take effect July 1, 2013.