

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 with a
20 disability; requiring certain assessments to
21 facilitate inclusive educational practices for
22 exceptional students; creating s. 1003.5715, F.S.;
23 requiring the use of parental consent forms for
24 specified actions in a student's individual education
25 plan; providing requirements for the consent forms;
26 providing requirements for changes in a student's
27 individual education plan; requiring the State Board
28 of Education to adopt rules; creating s. 1003.572,

HB 465

2013

29 F.S.; defining the term "private instructional
30 personnel"; encouraging the collaboration of public
31 and private instructional personnel and providing
32 requirements therefor; amending s. 1003.58, F.S.;
33 conforming a cross-reference; creating s. 1008.3415,
34 F.S.; requiring an exceptional student education
35 center to choose to receive a school grade or school
36 improvement rating; excluding student assessment data
37 from the calculation of a home school's grade under
38 certain circumstances; requiring the State Board of
39 Education to adopt rules; amending s. 1012.585, F.S.;
40 providing requirements for renewal of a professional
41 certificate relating to teaching students with
42 disabilities; authorizing the State Board of Education
43 to adopt rules; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Paragraph (a) of subsection (21) of section
48 1002.20, Florida Statutes, is amended to read:

49 1002.20 K-12 student and parent rights.—Parents of public
50 school students must receive accurate and timely information
51 regarding their child's academic progress and must be informed
52 of ways they can help their child to succeed in school. K-12
53 students and their parents are afforded numerous statutory
54 rights including, but not limited to, the following:

55 (21) PARENTAL INPUT AND MEETINGS.—

56 (a) Meetings with school district personnel.—Parents of

HB 465

2013

57 public school students may be accompanied by another adult of
58 their choice at any meeting with school district personnel.
59 School district personnel may not object to the attendance of
60 such adult or discourage or attempt to discourage, through any
61 action, statement, or other means, parents from inviting another
62 person of their choice to attend any meeting. Such prohibited
63 actions include, but are not limited to, attempted or actual
64 coercion or harassment of parents or students or retaliation or
65 threats of consequences to parents or students.

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

77 2. The parents and school district personnel attending the
78 meeting shall sign a document at the meeting's conclusion which
79 states whether any school district personnel have prohibited,
80 discouraged, or attempted to discourage the parents from
81 inviting a person of their choice to the meeting.

82 Section 2. Paragraph (c) of subsection (17) of section
83 1002.33, Florida Statutes, is amended to read:

84 1002.33 Charter schools.—

HB 465

2013

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

90 (c) If the district school board is providing programs or
91 services to students funded by federal funds, any eligible
92 students enrolled in charter schools in the school district
93 shall be provided federal funds for the same level of service
94 provided students in the schools operated by the district school
95 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
96 charter schools shall receive all federal funding for which the
97 school is otherwise eligible, including Title I funding, not
98 later than 5 months after the charter school first opens and
99 within 5 months after any subsequent expansion of enrollment.
100 Unless otherwise mutually agreed to by the charter school and
101 its sponsor, and consistent with state and federal rules and
102 regulations governing the use and disbursement of federal funds,
103 the sponsor shall reimburse the charter school on a monthly
104 basis for all invoices submitted by the charter school for
105 federal funds available to the sponsor for the benefit of the
106 charter school, the charter school's students, and the charter
107 school's students as public school students in the school
108 district. Such federal funds include, but are not limited to,
109 Title I, Title II, and Individuals with Disabilities Education
110 Act (IDEA) funds. To receive timely reimbursement for an
111 invoice, the charter school must submit the invoice to the
112 sponsor at least 30 days before the monthly date of

HB 465

2013

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

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

126 1002.41 Home education programs.—

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

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

139 1003.57 Exceptional students instruction.—

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

HB 465

2013

141 instruction under this section:

142 1. A school district shall use the following terms to
143 describe the instructional setting for a student with a
144 disability, 6 through 21 years of age, who is not educated in a
145 setting accessible to all children who are together at all
146 times:

147 a. "Exceptional student education center" or "special day
148 school" means a separate public school to which nondisabled
149 peers have access.

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

152 c. "Regular class" means a class in which a student spends
153 80 percent or more of the school week with nondisabled peers.

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

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

160 2. A school district shall use the term "inclusion" to
161 mean that a student is receiving education in a general
162 education regular class setting, reflecting natural proportions
163 and age-appropriate heterogeneous groups in core academic and
164 elective or special areas within the school community; a student
165 with a disability is a valued member of the classroom and school
166 community; the teachers and administrators support universal
167 education and have knowledge and supports available to enable
168 them to effectively teach all children; and a student is

169 provided access to technical assistance in best practices,
170 instructional methods, and supports tailored to the student's
171 needs based on current research.

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

176 1. The district school board provide the necessary
177 professional services for diagnosis and evaluation of
178 exceptional students.

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

185 3. The district school board annually provide information
186 describing the Florida School for the Deaf and the Blind and all
187 other programs and methods of instruction available to the
188 parent of a sensory-impaired student.

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

192 (c) ~~(b)~~ A student may not be given special instruction or
193 services as an exceptional student until after he or she has
194 been properly evaluated and found eligible as an exceptional
195 student with a disability, classified, and placed in the manner
196 prescribed by rules of the State Board of Education. The parent

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

223 (d) ~~(e)~~ Notwithstanding any law to the contrary, during the
224 pendency of any proceeding conducted pursuant to this section,

225 unless the district school board and the parents otherwise
226 agree, the student shall remain in his or her then-current
227 educational assignment or, if applying for initial admission to
228 a public school, shall be assigned, with the consent of the
229 parents, in the public school program until all such proceedings
230 have been completed.

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

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

HB 465

2013

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

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

269 1. Carries a weapon to or possesses a weapon at school, on
270 school premises, or at a school function under the jurisdiction
271 of the school district;

272 2. Knowingly possesses or uses illegal drugs, or sells or
273 solicits the sale of a controlled substance, while at school, on
274 school premises, or at a school function under the jurisdiction
275 of the school district; or

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

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

280 1. "Controlled substance" means a drug or other substance

HB 465

2013

281 identified under Schedule I, Schedule II, Schedule III, Schedule
282 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
283 812(c) and s. 893.02(4).

284 2. "Weapon" means a device, instrument, material, or
285 substance, animate or inanimate, which is used for, or is
286 readily capable of, causing death or serious bodily injury;
287 however, this definition does not include a pocketknife having a
288 blade that is less than 2 1/2 inches in length.

289 Section 5. Section 1003.5715, Florida Statutes, is created
290 to read:

291 1003.5715 Parental consent; individual education plan.-

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

296 (a) Administer to the student an alternate assessment
297 pursuant to s. 1008.22 and provide instruction in the state
298 standards access points curriculum.

299 (b) Place the student in an exceptional student education
300 center.

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

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

309 with the actions described in subsection (1) without a school
310 district due process hearing in accordance with 34 C.F.R. ss.
311 300.507 and 300.508.

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

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

314 (d) An informational statement of the benefits and
315 consequences of giving parental consent to the actions described
316 in subsection (1).

317 (3) A school district may not proceed with the actions
318 described in subsection (1) without parental consent unless the
319 school district documents reasonable efforts to obtain the
320 parent's consent and the child's parent has failed to respond or
321 the school district obtains approval through a due process
322 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
323 resolution of appeals.

324 (4) Except for a change in placement described in s.
325 1003.57(1)(h), if a school district determines that there is a
326 need to change an exceptional student's IEP as it relates to
327 actions described in subsection (1), the school must hold an IEP
328 Team meeting that includes the parent to discuss the reason for
329 the change. The school shall provide written notice of the
330 meeting to the parent indicating the purpose, time, and location
331 of the meeting and who, by title or position, will attend the
332 meeting. The IEP Team meeting requirement may be waived by
333 informed consent of the parent after the parent receives the
334 written notice.

335 (5) For a change in actions described in subsection (1) in
336 a student's IEP, the school district may not implement the

HB 465

2013

337 change without parental consent unless the school district
338 documents reasonable efforts to obtain the parent's consent and
339 the child's parent has failed to respond or the school district
340 obtains approval through a due process hearing in accordance
341 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
342 appeals.

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

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

352 (8) The State Board of Education shall adopt rules
353 pursuant to ss. 120.536(1) and 120.54 to implement this section,
354 including, but not limited to, developing parental consent
355 forms.

356 Section 6. Section 1003.572, Florida Statutes, is created
357 to read:

358 1003.572 Collaboration of public and private instructional
359 personnel.—

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

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

- 365 (b) Speech-language pathologists licensed under s.
366 468.1185.
- 367 (c) Occupational therapists licensed under part III of
368 chapter 468.
- 369 (d) Physical therapists licensed under chapter 486.
- 370 (e) Psychologists licensed under chapter 490.
- 371 (f) Clinical social workers licensed under chapter 491.
- 372 (2) The collaboration of public and private instructional
373 personnel shall be designed to enhance but not supplant the
374 school district's responsibilities under the Individuals with
375 Disabilities Education Act (IDEA). The school as the local
376 education agency shall provide therapy services to meet the
377 expectations provided in federal law and regulations and state
378 statutes and rules. Collaboration of public and private
379 instructional personnel will work to promote educational
380 progress and assist students in acquiring essential skills,
381 including, but not limited to, readiness for pursuit of higher
382 education goals or employment. Where applicable, public and
383 private instructional personnel shall undertake collaborative
384 programming. Coordination of services and plans between a public
385 school and private instructional personnel is encouraged to
386 avoid duplication or conflicting services or plans.
- 387 (3) Private instructional personnel who are hired or
388 contracted by parents to collaborate with public instructional
389 personnel must be permitted to observe the student in the
390 educational setting, collaborate with instructional personnel in
391 the educational setting, and provide services in the educational
392 setting according to the following requirements:

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

395 (b) The private instructional personnel satisfy the
 396 requirements of s. 1012.32 or s. 1012.321.

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

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

402 1003.58 Students in residential care facilities.—Each
 403 district school board shall provide educational programs
 404 according to rules of the State Board of Education to students
 405 who reside in residential care facilities operated by the
 406 Department of Children and Family Services or the Agency for
 407 Persons with Disabilities.

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

413
 414 Notwithstanding the provisions herein, the educational program
 415 at the Marianna Sunland Center in Jackson County shall be
 416 operated by the Department of Education, either directly or
 417 through grants or contractual agreements with other public or
 418 duly accredited educational agencies approved by the Department
 419 of Education.

420 Section 8. Section 1008.3415, Florida Statutes, is created

HB 465

2013

421 to read:

422 1008.3415 School grade or school improvement rating for
423 exceptional student education centers.-

424 (1) Each exceptional student education center shall choose
425 to receive a school grade pursuant s. 1008.34 or a school
426 improvement rating pursuant s. 1008.341.

427 (2) Notwithstanding s. 1008.34(3)(c)3., the achievement
428 scores and learning gains of a student with a disability who
429 attends an exceptional student education center and has not been
430 enrolled in or attended a public school other than an
431 exceptional student education center for grades K-12 within the
432 school district shall not be included in the calculation of the
433 home school's grade if the student is identified as an emergent
434 student on the alternate assessment tool described in s.
435 1008.22(3)(c)13.

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

440 Section 9. Paragraph (e) is added to subsection (3) of
441 section 1012.585, Florida Statutes, and subsection (6) is added
442 to that section, to read:

443 1012.585 Process for renewal of professional
444 certificates.-

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

447 (e) Beginning July 1, 2014, an applicant for renewal of a
448 professional certificate must earn a minimum of 1 college credit

HB 465

2013

449 or the equivalent inservice points in the area of instruction
450 for teaching students with disabilities. Educators who are
451 certified in exceptional student education, who have passed the
452 subject area test in exceptional student education, or who have
453 successfully completed an exceptional student education course
454 in a teacher preparation program are exempt from this
455 requirement. The requirement in this paragraph may not add to
456 the total hours required by the department for continuing
457 education or inservice training.

458 (6) The State Board of Education may adopt rules under ss.
459 120.536(1) and 120.54 to implement this section, including, but
460 not limited to, applicant renewal requirements.

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