

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. 1002.41, F.S.; requiring a
8 school district to provide exceptional student
9 education-related services to certain home education
10 program students; requiring reporting and funding
11 through the Florida Education Finance Program;
12 amending s. 1003.57, F.S.; requiring a school district
13 to use specified terms to describe the instructional
14 setting for certain exceptional students; defining the
15 term "inclusion" for purposes of exceptional student
16 instruction; providing for determination of
17 eligibility as an exceptional student; requiring
18 certain assessments to facilitate inclusive
19 educational practices for exceptional students;
20 creating s. 1003.5715, F.S.; requiring the use of
21 parental consent forms for specified actions in a
22 student's individual education plan; providing
23 requirements for the consent forms; providing
24 requirements for changes in a student's individual
25 education plan; requiring the State Board of Education
26 to adopt rules; creating s. 1003.572, F.S.; defining
27 the term "private instructional personnel";
28 encouraging the collaboration of public and private

29 | instructional personnel and providing requirements
 30 | therefor; amending s. 1003.58, F.S.; conforming a
 31 | cross-reference; amending s. 1012.585, F.S.; providing
 32 | requirements for renewal of a professional certificate
 33 | relating to teaching students with disabilities;
 34 | authorizing the State Board of Education to adopt
 35 | rules; providing an effective date.
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37 | Be It Enacted by the Legislature of the State of Florida:
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39 | Section 1. Paragraph (a) of subsection (21) of section
 40 | 1002.20, Florida Statutes, is amended to read:

41 | 1002.20 K-12 student and parent rights.—Parents of public
 42 | school students must receive accurate and timely information
 43 | regarding their child's academic progress and must be informed
 44 | of ways they can help their child to succeed in school. K-12
 45 | students and their parents are afforded numerous statutory
 46 | rights including, but not limited to, the following:

47 | (21) PARENTAL INPUT AND MEETINGS.—

48 | (a) Meetings with school district personnel.—Parents of
 49 | public school students may be accompanied by another adult of
 50 | their choice at any meeting with school district personnel.
 51 | School district personnel may not object to the attendance of
 52 | such adult or discourage or attempt to discourage, through any
 53 | action, statement, or other means, parents from inviting another
 54 | person of their choice to attend any meeting. Such prohibited
 55 | actions include, but are not limited to, attempted or actual
 56 | coercion or harassment of parents or students or retaliation or

57 | threats of consequences to parents or students.

58 | 1. Such meetings include, but not are not limited to,
 59 | meetings related to: the eligibility for exceptional student
 60 | education or related services; the development of an individual
 61 | family support plan (IFSP); the development of an individual
 62 | education plan (IEP); the development of a 504 accommodation
 63 | plan issued under s. 504 of the Rehabilitation Act of 1973; the
 64 | transition of a student from early intervention services to
 65 | other services; the development of postsecondary goals for a
 66 | student and the transition services needed to reach those goals;
 67 | and other issues that may affect a student's educational
 68 | environment, discipline, or placement.

69 | 2. The parents and school district personnel attending the
 70 | meeting shall sign a document at the meeting's conclusion which
 71 | states whether any school district personnel have prohibited,
 72 | discouraged, or attempted to discourage the parents from
 73 | inviting a person of their choice to the meeting.

74 | Section 2. Subsection (10) is added to section 1002.41,
 75 | Florida Statutes, to read:

76 | 1002.41 Home education programs.—

77 | (10) A school district shall provide exceptional student
 78 | education-related services, as defined in State Board of
 79 | Education rule, to a home education program student with a
 80 | disability who is eligible for the services and who enrolls in a
 81 | public school for the purpose of receiving those related
 82 | services. The school district providing the services shall
 83 | report each such student as a full-time equivalent student in a
 84 | manner prescribed by the Department of Education, and funding

85 shall be provided through the Florida Education Finance Program
 86 pursuant to s. 1011.62.

87 Section 3. Subsection (1) of section 1003.57, Florida
 88 Statutes, is amended to read:

89 1003.57 Exceptional students instruction.—

90 (1) (a) For purposes of providing exceptional student
 91 instruction under this section:

92 1. A school district shall use the following terms to
 93 describe the instructional setting for a student with a
 94 disability, 6 through 21 years of age, who is not educated in a
 95 setting accessible to all children who are together at all
 96 times:

97 a. "Exceptional student education center" or "special day
 98 school" means a separate public school to which nondisabled
 99 peers do not have access.

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

102 c. "Regular class" means a class in which a student spends
 103 80 percent or more of the school week with nondisabled peers.

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

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

110 2. A school district shall use the term "inclusion" to
 111 mean that a student is receiving education in a general
 112 education regular class setting, reflecting natural proportions

113 and age-appropriate heterogeneous groups in core academic and
114 elective or special areas within the school community; a student
115 with a disability is a valued member of the classroom and school
116 community; the teachers and administrators support universal
117 education and have knowledge and supports available to enable
118 them to effectively teach all children; and a student is
119 provided access to technical assistance in best practices,
120 instructional methods, and supports tailored to the student's
121 needs based on current research.

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

126 1. The district school board provide the necessary
127 professional services for diagnosis and evaluation of
128 exceptional students.

129 2. The district school board provide the special
130 instruction, classes, and services, either within the district
131 school system, in cooperation with other district school
132 systems, or through contractual arrangements with approved
133 private schools or community facilities that meet standards
134 established by the commissioner.

135 3. The district school board annually provide information
136 describing the Florida School for the Deaf and the Blind and all
137 other programs and methods of instruction available to the
138 parent of a sensory-impaired student.

139 4. The district school board, once every 3 years, submit
140 to the department its proposed procedures for the provision of

141 special instruction and services for exceptional students.

142 ~~(c)(b)~~ A student may not be given special instruction or
143 services as an exceptional student until after he or she has
144 been properly evaluated and found eligible as an exceptional
145 student, ~~classified, and placed~~ in the manner prescribed by
146 rules of the State Board of Education. The parent of an
147 exceptional student evaluated and found eligible or ineligible
148 ~~placed or denied placement in a program of special education~~
149 shall be notified of each such evaluation and determination
150 ~~placement or denial~~. Such notice shall contain a statement
151 informing the parent that he or she is entitled to a due process
152 hearing on the identification, evaluation, and eligibility
153 determination ~~placement~~, or lack thereof. Such hearings are
154 exempt from ss. 120.569, 120.57, and 286.011, except to the
155 extent that the State Board of Education adopts rules
156 establishing other procedures. Any records created as a result
157 of such hearings are confidential and exempt from s. 119.07(1).
158 The hearing must be conducted by an administrative law judge
159 from the Division of Administrative Hearings pursuant to a
160 contract between the Department of Education and the Division of
161 Administrative Hearings. The decision of the administrative law
162 judge is final, except that any party aggrieved by the finding
163 and decision rendered by the administrative law judge has the
164 right to bring a civil action in the state circuit court. In
165 such an action, the court shall receive the records of the
166 administrative hearing and shall hear additional evidence at the
167 request of either party. In the alternative, in hearings
168 conducted on behalf of a student who is identified as gifted,

169 any party aggrieved by the finding and decision rendered by the
170 administrative law judge has the right to request a review of
171 the administrative law judge's order by the district court of
172 appeal as provided in s. 120.68.

173 ~~(d)(e)~~ Notwithstanding any law to the contrary, during the
174 pendency of any proceeding conducted pursuant to this section,
175 unless the district school board and the parents otherwise
176 agree, the student shall remain in his or her then-current
177 educational assignment or, if applying for initial admission to
178 a public school, shall be assigned, with the consent of the
179 parents, in the public school program until all such proceedings
180 have been completed.

181 ~~(e)(d)~~ In providing for the education of exceptional
182 students, the district school superintendent, principals, and
183 teachers shall utilize the regular school facilities and adapt
184 them to the needs of exceptional students to the maximum extent
185 appropriate. To the extent appropriate, students with
186 disabilities, including those students in public or private
187 institutions or other facilities, shall be educated with
188 students who are not disabled. Segregation of exceptional
189 students shall occur only if the nature or severity of the
190 exceptionality is such that education in regular classes with
191 the use of supplementary aids and services cannot be achieved
192 satisfactorily.

193 (f) Once every 3 years, each school district and school
194 shall complete a Best Practices in Inclusive Education (BPIE)
195 assessment with a Florida Inclusion Network facilitator and
196 include the results of the BPIE assessment and all planned

197 short-term and long-term improvement efforts in the school
198 district's exceptional student education policies and
199 procedures. BPIE is an internal assessment process designed to
200 facilitate the analysis, implementation, and improvement of
201 inclusive educational practices at the district and school team
202 levels.

203 (g)~~(e)~~ In addition to the services agreed to in a
204 student's individual educational plan, the district school
205 superintendent shall fully inform the parent of a student having
206 a physical or developmental disability of all available services
207 that are appropriate for the student's disability. The
208 superintendent shall provide the student's parent with a summary
209 of the student's rights.

210 (h)~~(f)~~ School personnel may consider any unique
211 circumstances on a case-by-case basis when determining whether a
212 change in placement is appropriate for a student who has a
213 disability and violates a district school board's code of
214 student conduct. School personnel may remove and place such
215 student in an interim alternative educational setting for not
216 more than 45 school days, without regard to whether the behavior
217 is determined to be a manifestation of the student's disability,
218 if the student:

219 1. Carries a weapon to or possesses a weapon at school, on
220 school premises, or at a school function under the jurisdiction
221 of the school district;

222 2. Knowingly possesses or uses illegal drugs, or sells or
223 solicits the sale of a controlled substance, while at school, on
224 school premises, or at a school function under the jurisdiction

225 of the school district; or

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

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

230 1. "Controlled substance" means a drug or other substance
231 identified under Schedule I, Schedule II, Schedule III, Schedule
232 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
233 812(c) and s. 893.02(4).

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

239 Section 4. Section 1003.5715, Florida Statutes, is created
240 to read:

241 1003.5715 Parental consent; individual education plan.—

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

246 (a) Administer to the student an alternate assessment
247 pursuant to s. 1008.22 and provide instruction in the state
248 standards access points curriculum.

249 (b) Place the student in an exceptional student education
250 center.

251 (2) In accordance with 34 C.F.R. s. 300.503, each form
252 shall be provided to the parent in the parent's native language,

253 as defined in 34 C.F.R. s. 300.29, and include the following:

254 (a) A statement that the parent is a participant of the
255 individual education plan team (IEP Team) and has the right to
256 consent or refuse consent to the actions described in subsection
257 (1). The statement shall include information that the refusal of
258 parental consent means that the school district may not proceed
259 with the actions described in subsection (1) without a school
260 district due process hearing in accordance with 34 C.F.R. ss.
261 300.507 and 300.508.

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

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

264 (d) An informational statement of the benefits and
265 consequences of giving parental consent to the actions described
266 in subsection (1).

267 (3) A school district may not proceed with the actions
268 described in subsection (1) without parental consent unless the
269 school district documents reasonable efforts to obtain the
270 parent's consent and the child's parent has failed to respond or
271 the school district obtains approval through a due process
272 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
273 resolution of appeals.

274 (4) Except for a change in placement described in s.
275 1003.57(1)(h), if a school district determines that there is a
276 need to change an exceptional student's IEP as it relates to
277 actions described in subsection (1), the school must hold an IEP
278 Team meeting that includes the parent to discuss the reason for
279 the change. The school shall provide written notice of the
280 meeting to the parent indicating the purpose, time, and location

281 of the meeting and who, by title or position, will attend the
282 meeting. The IEP Team meeting requirement may be waived by
283 informed consent of the parent after the parent receives the
284 written notice.

285 (5) For a change in actions described in subsection (1) in
286 a student's IEP, the school district may not implement the
287 change without parental consent unless the school district
288 documents reasonable efforts to obtain the parent's consent and
289 the child's parent has failed to respond or the school district
290 obtains approval through a due process hearing in accordance
291 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
292 appeals.

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

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

302 (8) The State Board of Education shall adopt rules
303 pursuant to ss. 120.536(1) and 120.54 to implement this section,
304 including, but not limited to, developing parental consent
305 forms.

306 Section 5. Section 1003.572, Florida Statutes, is created
307 to read:

308 1003.572 Collaboration of public and private instructional

309 personnel.—

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

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

315 (b) Speech-language pathologists licensed under s.
316 468.1185.

317 (c) Occupational therapists licensed under part III of
318 chapter 468.

319 (d) Physical therapists licensed under chapter 486.

320 (e) Psychologists licensed under chapter 490.

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

322 (2) The collaboration of public and private instructional
323 personnel shall be designed to enhance but not supplant the
324 school district's responsibilities under the Individuals with
325 Disabilities Education Act (IDEA). The school as the local
326 education agency shall provide therapy services to meet the
327 expectations provided in federal law and regulations and state
328 statutes and rules. Collaboration of public and private
329 instructional personnel will work to promote educational
330 progress and assist students in acquiring essential skills,
331 including, but not limited to, readiness for pursuit of higher
332 education goals or employment. Where applicable, public and
333 private instructional personnel shall undertake collaborative
334 programming. Coordination of services and plans between a public
335 school and private instructional personnel is encouraged to
336 avoid duplication or conflicting services or plans.

337 (3) Private instructional personnel who are hired or
338 contracted by parents to collaborate with public instructional
339 personnel must be permitted to observe the student in the
340 educational setting, collaborate with instructional personnel in
341 the educational setting, and provide services in the educational
342 setting according to the following requirements:

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

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

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

350 Section 6. Subsection (3) of section 1003.58, Florida
351 Statutes, is amended to read:

352 1003.58 Students in residential care facilities.—Each
353 district school board shall provide educational programs
354 according to rules of the State Board of Education to students
355 who reside in residential care facilities operated by the
356 Department of Children and Family Services or the Agency for
357 Persons with Disabilities.

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

363
364 Notwithstanding the provisions herein, the educational program

365 at the Marianna Sunland Center in Jackson County shall be
366 operated by the Department of Education, either directly or
367 through grants or contractual agreements with other public or
368 duly accredited educational agencies approved by the Department
369 of Education.

370 Section 7. Paragraph (e) is added to subsection (3) of
371 section 1012.585, Florida Statutes, and subsection (6) is added
372 to that section, to read:

373 1012.585 Process for renewal of professional
374 certificates.—

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

377 (e) Beginning July 1, 2014, an applicant for renewal of a
378 professional certificate must earn a minimum of 1 college credit
379 or the equivalent inservice points in the area of instruction
380 for teaching students with disabilities. Educators who are
381 certified in exceptional student education, who have passed the
382 subject area test in exceptional student education, or who have
383 successfully completed an exceptional student education course
384 in a teacher preparation program are exempt from this
385 requirement. The requirement in this paragraph may not add to
386 the total hours required by the department for continuing
387 education or inservice training.

388 (6) The State Board of Education may adopt rules under ss.
389 120.536(1) and 120.54 to implement this section, including, but
390 not limited to, applicant renewal requirements.

391 Section 8. This act shall take effect July 1, 2013.