

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. 1003.57, F.S.; requiring a
8 school district to use specified terms to describe the
9 instructional setting for certain exceptional
10 students; defining the term "inclusion" for purposes
11 of exceptional student instruction; providing for
12 determination of eligibility as an exceptional
13 student; requiring certain assessments to facilitate
14 inclusive educational practices for exceptional
15 students; creating s. 1003.5715, F.S.; requiring the
16 use of parental consent forms for specified actions in
17 a student's individual education plan; providing
18 requirements for the consent forms; providing
19 requirements for changes in a student's individual
20 education plan; requiring the State Board of Education
21 to adopt rules; creating s. 1003.572, F.S.; defining
22 the term "private instructional personnel";
23 encouraging the collaboration of public and private
24 instructional personnel and providing requirements
25 therefor; amending s. 1003.58, F.S.; conforming a
26 cross-reference; amending s. 1012.585, F.S.; providing
27 requirements for renewal of a professional certificate
28 relating to teaching students with disabilities;

29 | authorizing the State Board of Education to adopt
30 | rules; providing an effective date.

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32 | Be It Enacted by the Legislature of the State of Florida:

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34 | Section 1. Paragraph (a) of subsection (21) of section
35 | 1002.20, Florida Statutes, is amended to read:

36 | 1002.20 K-12 student and parent rights.—Parents of public
37 | school students must receive accurate and timely information
38 | regarding their child's academic progress and must be informed
39 | of ways they can help their child to succeed in school. K-12
40 | students and their parents are afforded numerous statutory
41 | rights including, but not limited to, the following:

42 | (21) PARENTAL INPUT AND MEETINGS.—

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

53 | 1. Such meetings include, but are not limited to,
54 | meetings related to: the eligibility for exceptional student
55 | education or related services; the development of an individual
56 | family support plan (IFSP); the development of an individual

57 education plan (IEP); the development of a 504 accommodation
58 plan issued under s. 504 of the Rehabilitation Act of 1973; the
59 transition of a student from early intervention services to
60 other services; the development of postsecondary goals for a
61 student and the transition services needed to reach those goals;
62 and other issues that may affect a student's educational
63 environment, discipline, or placement.

64 2. The parents and school district personnel attending the
65 meeting shall sign a document at the meeting's conclusion which
66 states whether any school district personnel have prohibited,
67 discouraged, or attempted to discourage the parents from
68 inviting a person of their choice to the meeting.

69 Section 2. Subsection (1) of section 1003.57, Florida
70 Statutes, is amended to read:

71 1003.57 Exceptional students instruction.-

72 (1) (a) For purposes of providing exceptional student
73 instruction under this section:

74 1. A school district shall use the following terms to
75 describe the instructional setting for a student with a
76 disability, 6 through 21 years of age, who is not educated in a
77 setting accessible to all children who are together at all
78 times:

79 a. "Exceptional student education center" or "special day
80 school" means a separate public school to which nondisabled
81 peers do not have access.

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

84 c. "Regular class" means a class in which a student spends

85 80 percent or more of the school week with nondisabled peers.

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

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

92 2. A school district shall use the term "inclusion" to
 93 mean that a student is receiving education in a general
 94 education regular class setting, reflecting natural proportions
 95 and age-appropriate heterogeneous groups in core academic and
 96 elective or special areas within the school community; a student
 97 with a disability is a valued member of the classroom and school
 98 community; the teachers and administrators support universal
 99 education and have knowledge and supports available to enable
 100 them to effectively teach all children; and a student is
 101 provided access to technical assistance in best practices,
 102 instructional methods, and supports tailored to the student's
 103 needs based on current research.

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

108 1. The district school board provide the necessary
 109 professional services for diagnosis and evaluation of
 110 exceptional students.

111 2. The district school board provide the special
 112 instruction, classes, and services, either within the district

113 school system, in cooperation with other district school
114 systems, or through contractual arrangements with approved
115 private schools or community facilities that meet standards
116 established by the commissioner.

117 3. The district school board annually provide information
118 describing the Florida School for the Deaf and the Blind and all
119 other programs and methods of instruction available to the
120 parent of a sensory-impaired student.

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

124 (c) ~~(b)~~ A student may not be given special instruction or
125 services as an exceptional student until after he or she has
126 been properly evaluated and found eligible as an exceptional
127 student, ~~classified, and placed~~ in the manner prescribed by
128 rules of the State Board of Education. The parent of an
129 exceptional student evaluated and found eligible or ineligible
130 ~~placed or denied placement in a program of special education~~
131 shall be notified of each such evaluation and determination
132 ~~placement or denial~~. Such notice shall contain a statement
133 informing the parent that he or she is entitled to a due process
134 hearing on the identification, evaluation, and eligibility
135 determination ~~placement~~, or lack thereof. Such hearings are
136 exempt from ss. 120.569, 120.57, and 286.011, except to the
137 extent that the State Board of Education adopts rules
138 establishing other procedures. Any records created as a result
139 of such hearings are confidential and exempt from s. 119.07(1).
140 The hearing must be conducted by an administrative law judge

141 from the Division of Administrative Hearings pursuant to a
142 contract between the Department of Education and the Division of
143 Administrative Hearings. The decision of the administrative law
144 judge is final, except that any party aggrieved by the finding
145 and decision rendered by the administrative law judge has the
146 right to bring a civil action in the state circuit court. In
147 such an action, the court shall receive the records of the
148 administrative hearing and shall hear additional evidence at the
149 request of either party. In the alternative, in hearings
150 conducted on behalf of a student who is identified as gifted,
151 any party aggrieved by the finding and decision rendered by the
152 administrative law judge has the right to request a review of
153 the administrative law judge's order by the district court of
154 appeal as provided in s. 120.68.

155 (d)~~(e)~~ Notwithstanding any law to the contrary, during the
156 pendency of any proceeding conducted pursuant to this section,
157 unless the district school board and the parents otherwise
158 agree, the student shall remain in his or her then-current
159 educational assignment or, if applying for initial admission to
160 a public school, shall be assigned, with the consent of the
161 parents, in the public school program until all such proceedings
162 have been completed.

163 (e)~~(d)~~ In providing for the education of exceptional
164 students, the district school superintendent, principals, and
165 teachers shall utilize the regular school facilities and adapt
166 them to the needs of exceptional students to the maximum extent
167 appropriate. To the extent appropriate, students with
168 disabilities, including those students in public or private

169 institutions or other facilities, shall be educated with
170 students who are not disabled. Segregation of exceptional
171 students shall occur only if the nature or severity of the
172 exceptionality is such that education in regular classes with
173 the use of supplementary aids and services cannot be achieved
174 satisfactorily.

175 (f) Once every 3 years, each school district and school
176 shall complete a Best Practices in Inclusive Education (BPIE)
177 assessment with a Florida Inclusion Network facilitator and
178 include the results of the BPIE assessment and all planned
179 short-term and long-term improvement efforts in the school
180 district's exceptional student education policies and
181 procedures. BPIE is an internal assessment process designed to
182 facilitate the analysis, implementation, and improvement of
183 inclusive educational practices at the district and school team
184 levels.

185 (g)~~(e)~~ In addition to the services agreed to in a
186 student's individual educational plan, the district school
187 superintendent shall fully inform the parent of a student having
188 a physical or developmental disability of all available services
189 that are appropriate for the student's disability. The
190 superintendent shall provide the student's parent with a summary
191 of the student's rights.

192 (h)~~(f)~~ School personnel may consider any unique
193 circumstances on a case-by-case basis when determining whether a
194 change in placement is appropriate for a student who has a
195 disability and violates a district school board's code of
196 student conduct. School personnel may remove and place such

197 student in an interim alternative educational setting for not
 198 more than 45 school days, without regard to whether the behavior
 199 is determined to be a manifestation of the student's disability,
 200 if the student:

201 1. Carries a weapon to or possesses a weapon at school, on
 202 school premises, or at a school function under the jurisdiction
 203 of the school district;

204 2. Knowingly possesses or uses illegal drugs, or sells or
 205 solicits the sale of a controlled substance, while at school, on
 206 school premises, or at a school function under the jurisdiction
 207 of the school district; or

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

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

212 1. "Controlled substance" means a drug or other substance
 213 identified under Schedule I, Schedule II, Schedule III, Schedule
 214 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
 215 812(c) and s. 893.02(4).

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

221 Section 3. Section 1003.5715, Florida Statutes, is created
 222 to read:

223 1003.5715 Parental consent; individual education plan.—

224 (1) The Department of Education shall adopt separate

225 parental consent forms that school districts must use for each
226 of the following actions in a student's individual education
227 plan (IEP):

228 (a) Administer to the student an alternate assessment
229 pursuant to s. 1008.22 and provide instruction in the state
230 standards access points curriculum.

231 (b) Place the student in an exceptional student education
232 center.

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

236 (a) A statement that the parent is a participant of the
237 individual education plan team (IEP Team) and has the right to
238 consent or refuse consent to the actions described in subsection
239 (1). The statement shall include information that the refusal of
240 parental consent means that the school district may not proceed
241 with the actions described in subsection (1) without a school
242 district due process hearing in accordance with 34 C.F.R. ss.
243 300.507 and 300.508.

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

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

246 (d) An informational statement of the benefits and
247 consequences of giving parental consent to the actions described
248 in subsection (1).

249 (3) A school district may not proceed with the actions
250 described in subsection (1) without parental consent unless the
251 school district documents reasonable efforts to obtain the
252 parent's consent and the child's parent has failed to respond or

253 the school district obtains approval through a due process
254 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
255 resolution of appeals.

256 (4) Except for a change in placement described in s.
257 1003.57(1)(h), if a school district determines that there is a
258 need to change an exceptional student's IEP as it relates to
259 actions described in subsection (1), the school must hold an IEP
260 Team meeting that includes the parent to discuss the reason for
261 the change. The school shall provide written notice of the
262 meeting to the parent indicating the purpose, time, and location
263 of the meeting and who, by title or position, will attend the
264 meeting. The IEP Team meeting requirement may be waived by
265 informed consent of the parent after the parent receives the
266 written notice.

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

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

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

284 (8) The State Board of Education shall adopt rules
 285 pursuant to ss. 120.536(1) and 120.54 to implement this section,
 286 including, but not limited to, developing parental consent
 287 forms.

288 Section 4. Section 1003.572, Florida Statutes, is created
 289 to read:

290 1003.572 Collaboration of public and private instructional
 291 personnel.—

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

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

297 (b) Speech-language pathologists licensed under s.
 298 468.1185.

299 (c) Occupational therapists licensed under part III of
 300 chapter 468.

301 (d) Physical therapists licensed under chapter 486.

302 (e) Psychologists licensed under chapter 490.

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

304 (2) The collaboration of public and private instructional
 305 personnel shall be designed to enhance but not supplant the
 306 school district's responsibilities under the Individuals with
 307 Disabilities Education Act (IDEA). The school as the local
 308 education agency shall provide therapy services to meet the

309 expectations provided in federal law and regulations and state
310 statutes and rules. Collaboration of public and private
311 instructional personnel will work to promote educational
312 progress and assist students in acquiring essential skills,
313 including, but not limited to, readiness for pursuit of higher
314 education goals or employment. Where applicable, public and
315 private instructional personnel shall undertake collaborative
316 programming. Coordination of services and plans between a public
317 school and private instructional personnel is encouraged to
318 avoid duplication or conflicting services or plans.

319 (3) Private instructional personnel who are hired or
320 contracted by parents to collaborate with public instructional
321 personnel must be permitted to observe the student in the
322 educational setting, collaborate with instructional personnel in
323 the educational setting, and provide services in the educational
324 setting according to the following requirements:

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

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

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

332 Section 5. Subsection (3) of section 1003.58, Florida
333 Statutes, is amended to read:

334 1003.58 Students in residential care facilities.—Each
335 district school board shall provide educational programs
336 according to rules of the State Board of Education to students

337 who reside in residential care facilities operated by the
338 Department of Children and Family Services or the Agency for
339 Persons with Disabilities.

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

345
346 Notwithstanding the provisions herein, the educational program
347 at the Marianna Sunland Center in Jackson County shall be
348 operated by the Department of Education, either directly or
349 through grants or contractual agreements with other public or
350 duly accredited educational agencies approved by the Department
351 of Education.

352 Section 6. Paragraph (e) is added to subsection (3) of
353 section 1012.585, Florida Statutes, and subsection (6) is added
354 to that section, to read:

355 1012.585 Process for renewal of professional
356 certificates.—

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

359 (e) Beginning July 1, 2014, an applicant for renewal of a
360 professional certificate must earn a minimum of 1 college credit
361 or the equivalent inservice points in the area of instruction
362 for teaching students with disabilities. Educators who are
363 certified in exceptional student education, who have passed the
364 subject area test in exceptional student education, or who have

CS/CS/HB 465

2013

365 successfully completed an exceptional student education course
366 in a teacher preparation program are exempt from this
367 requirement. The requirement in this paragraph may not add to
368 the total hours required by the department for continuing
369 education or inservice training.

370 (6) The State Board of Education may adopt rules under ss.
371 120.536(1) and 120.54 to implement this section, including, but
372 not limited to, applicant renewal requirements.

373 Section 7. This act shall take effect July 1, 2013.