

OMB NO. 1820-0030
Expires: 08/31/2009

**ANNUAL STATE APPLICATION UNDER PART B OF THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004
FOR FEDERAL FISCAL YEAR 2009**
CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS
Washington, DC 20202-2600**

Section I

A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2010. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

1. Conditional Approval Related to Assurances in Section II.A:

- a. Section II.A provides documentation of completion of all issues identified in the FFY 2008 conditional approval letter.
- b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2008 conditional approval letter.

2. Conditional Approval Related to Other Issues:

- a. The State previously submitted documentation of completion of all issues identified in the FFY 2008 conditional approval letter.
- b. The State is attaching documentation of completion of all issues identified in the FFY 2008 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- c. The State has not completed all issues identified in the FFY 2008 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

(See Attachment 1)

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<i>Check and enter date(s) as applicable</i>		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
✓		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
✓		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
✓		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
✓		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.325. (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
✓		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.

<i>Check and enter date(s) as applicable</i>		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
✓		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
✓		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
✓		8. Agencies in the State comply with 34 CFR §§ 300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
✓		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
✓		10. To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
✓		11. The State educational agency is responsible for ensuring that the requirements of Part B are met according to 34 CFR §300.149 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)

<i>Check and enter date(s) as applicable</i>		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
✓		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
✓		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
✓		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
✓		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
✓		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
✓		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
✓		18. The State will not reduce the amount of State financial support for special

<i>Check and enter date(s) as applicable</i>		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §300.163.
✓		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
✓		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
✓		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
✓		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
✓		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
✓		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of

<i>Check and enter date(s) as applicable</i>		Assurances Related to Policies and Procedures
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		<p>any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to:</p> <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		<p>23b.2 The State Educational Agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)</p>
✓		<p>24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate over identification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)</p>
✓		<p>25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.</p>

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
✓	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
✓	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
✓	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
✓	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State Educational Agency is providing the following certifications:

Yes	
✓	1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i> , is on file with the Secretary of Education. With respect to the <i>Certification Regarding Lobbying</i> , the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
✓	2. The State certifies that certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
✓	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154 are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

I certify that the State of Florida can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2010. (34 CFR §76.104)

I, the undersigned authorized official of the

Florida Department of Education,
(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2009 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: Eric J. Smith, Commissioner of Education	
Signature:	Date:

Section III

Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act - 20 U.S.C. 1411(e)(5); 34 CFR §300.171

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the 2009 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).¹ The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR §300.704)

The Florida Department of Education, Bureau of Exceptional Education and Student Services, obtains input regarding the activities described above from the State Advisory Committee (SAC) and the Bureau/District Partners. The Bureau/District Partners represents the range of districts across the state, including small and large, and urban and rural districts. Input regarding the most effective use of funds to meet designated state priorities and school district needs also is obtained through formal and informal communication with districts and the Bureau's IDEA-funded discretionary projects throughout the year.

¹ Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Section IV

State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR §300.199)

Florida has statutes, rules, or policies imposed that represent obligations that go beyond those required under IDEA or the implementing Federal regulations. Additionally, in some areas there is supplementary language in State Board of Education (SBE) rule that exceeds IDEA or the implementing regulations; this language is generally descriptive or representative of the intent of a regulation, and does not impose additional obligations on school districts. The document provided to school districts informing them of State-imposed rules, regulations, policies that are not required by IDEA or Federal regulations, as well as other supplementary language, is included here as **Attachment 2**. This document was disseminated to school districts through the Bureau's BEESS Weekly Memo on March 5, 2009.

Section I.B.**Conditional Approval for Current Grant Year**

I.B.1. The conditional approval for Florida's FFY 2008 Part B grant was based in part on the status of revisions designed to align Florida's rules with IDEA 2004 and the implementing regulations. The rules were approved by the State Board of Education (SBE) on June 17, 2008. Subsequent to SBE approval, the Joint Administrative Procedures Committee of the State Legislature (JAPC) requested clarification regarding some aspects of the rules. In addition, interested parties filed a challenge with the Division of Administrative Hearings (DOAH) on July 18, 2008. The challenge was dismissed on September 8, 2008, and a final response addressing identified areas of concern was provided to JAPC on November 14, 2008. The rules were then filed for adoption, and became effective on December 22, 2008.

An electronic copy of the revised rules was provided to OSEP on January 20, 2009, and a print copy was mailed on that date as well.

I.B.2. The conditional approval for Florida's FFY 2008 Part B grant was also based on the following items that had not yet been completed:

- 34 CFR 300.530(i)(4) relating to the State's definition of "weapon" for the purposes of the authority of school personnel to remove a student to an interim alternative educational setting.
 - This requirement was completed with the adoption of Rule 6A-6.03012.
- 34 CFR 300.516(c)(2) relating to the right of an aggrieved party to submit additional evidence in a subsequent civil action appealing the decision of a hearing officer.
 - On July 19, 2008, the Florida Department of Education submitted a plan to address this issue to the U.S. Department of Education, Office of Special Education Programs (OSEP). The plan was approved by OSEP on October 23, 2008.
 - The Department is currently seeking the statutory change. Language has been drafted and approved by legislative staff. The Florida Legislature will be in session from March 3, 2009, through May 1, 2009. The proposed amendment includes the following changes to Section 1003.57, Florida Statutes (F.S.):
 - *The hearing must be conducted by an administrative law judge from the Division of Administrative Hearings pursuant to a contract between the Department of Education and the Division of Administrative Hearings of the Department of Management Services. The decision of the administrative law judge ~~shall be~~ is final, except that any party aggrieved by the finding and decision rendered by the administrative law judge ~~shall have~~ has the right to bring a civil action in the state circuit court. In such an action, the court shall receive the records of the administrative hearing and shall hear additional evidence at the request of either party. In the alternative, hearings conducted on behalf of a student who is identified as gifted, any party aggrieved by the finding and decision rendered by the administrative law judge shall have has the right to request an impartial review of the administrative law judge's order by the district court of appeal as provided by s. 120.68, F.S.*

Note: Words ~~stricken~~ are deletions; words underlined are additions

**Florida Department of Education
 Bureau of Exceptional Education and Student Services**

**State Board of Education Administrative Rules for Students with Disabilities
 Exceeding the Individuals with Disabilities Education Act (IDEA)**

Summary of Requirements

Section 300.199 of Title 34 of the Code of Federal Regulations requires that States identify in writing to local educational agencies any State-imposed rule, regulation, or policy that is not required under IDEA or the implementing Federal regulations. Florida has statutes, rules, or policies that reflect obligations that go beyond those required under IDEA or its regulations (see section **A** below). Additionally, in some areas there is language in State Board of Education (SBE) rule that exceeds that in IDEA or the regulations, but that is generally descriptive or representative of the intent of a regulation, and does not impose additional obligations on school districts (see section **B** below).

The information provided here reflects the content of Florida's State Board of Education Rules 6A-6.03028, *Provision of Free Appropriate Public Education and Development of Individual Educational Plans for Students with Disabilities*; 6A-6.030281, *Provision of Equitable Services to Parentally-Placed Private School Students with Disabilities*; 6A-6.0331, *General Education Intervention Procedures, Identification, Evaluation, Reevaluation, and the Initial Provision of Special Education Services*; 6A-6.03311, *Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities*; 6A-6.03312, *Discipline Procedures for Students with Disabilities*, 6A-6.03314, 6A-6.0333, *Surrogate Parents*; 6A-6.0334, *Individual Educational Plans (IEPs) and Educational Plans (EPs) for Transferring Exceptional Students*; and 6A-6.03411, *Definitions, ESE Policies and Procedures, Document and ESE Administrators*, Florida Administrative Code (F.A.C.)

A. State-Imposed Requirements beyond IDEA

Rule 6A-6.03028, Florida Administrative Code (F.A.C.), Provision of Free Appropriate Public Education and Development of Individual Educational Plans for Students with Disabilities

- Rule 6A-6.03028(3)(b)4, (3)(c)7, and (3)(h)9, F.A.C. – Retains transition planning beginning at age fourteen (14), including the following:
 - Student be invited to the meeting beginning at age fourteen (14)
 - Individual educational plan (IEP) team must begin the process of identifying the transition services needs of students with disabilities no later than the age fourteen (14)
 - IEP team must consider the need for instruction in self-determination beginning at age fourteen (14)
 - Commissioner of Education Rule 6-1.0996, Florida Administrative Code, requires that during the student's eighth grade year or during the school year of the student's fourteenth birthday, whichever comes first, the IEP must contain a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma
- Rule 6A-6.03028(3)(b)8, F.A.C. – Requires the district to provide an interpreter at a meeting that is attended by the student if the student needs that service
- Rule 6A-6.03028(3)(h)4, F.A.C. – Includes the requirements at section 1008.22(3)(c)6., Florida Statutes, that the parent provide signed consent for a student to receive instructional accommodations that would not be permitted on the statewide assessments and acknowledge in writing that he or she understands the implications of such accommodations. Non-allowable accommodations are those that negate the validity of a statewide assessment. If a student does not participate in the regular state assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation
- Rule 6A-6.03028(3)(j)3, F.A.C. – States directly that the school district must ensure that the IEP team responds to parent's right to ask for revision of the student's IEP

Rule 6A-6.0331, F.A.C., General Education Intervention Procedures, Identification, Evaluation, Reevaluation, and the Initial Provision of Special Education Services

- Rule 6A-6.0331(1) , F.A.C. – Requires general education interventions to be implemented for struggling students, including the following:
 - Parents must be involved in the process
 - Pre-intervention and ongoing progress monitoring measures of academic and/or behavioral areas of concern must be collected and communicated to the parents in an understandable format
 - Procedures such as observations, review of existing data, including attendance records, vision and hearing screenings, additional screenings as appropriate, and the implementation of evidence-based academic and/or behavioral interventions, are described.
 - These general education interventions may not be required for all students suspected of having a disability, if the evaluation team, including the parent and qualified professionals, determines that these general education interventions are not appropriate for a student who demonstrates a speech disorder, severe cognitive, physical or sensory disorders, or severe social/behavioral deficits that require immediate intervention to prevent harm to the student or others.
- Rule 6A-6.0331(3)(a) , F.A.C. – Prior to a school district request for initial evaluation, school personnel must make one of the following determinations and include appropriate documentation in the student’s educational record to the effect that:
 - For a student suspected of being a student with a disability, the general education intervention procedures have been implemented as required under this rule and indicate that the student should be considered for eligibility for exceptional student education services; or
 - The nature or severity of the student’s learning or behavioral areas of concern makes the general education intervention procedures inappropriate in addressing the immediate needs of the student
- Rule 6A-6.0331(3)(b) , F.A.C. – If the parents of the child receiving general education interventions requests, prior to the completion of these interventions, that the school conduct an evaluation to determine the student’s eligibility for specially designed instruction and related services as a student with a disability, the school district:
 - Must obtain consent for and conduct the evaluation; and
 - Complete the activities described in section (1) of this rule concurrently with the evaluation but prior to the determination of the student’s eligibility for specially designed instruction; or
 - Must provide the parent with written notice of its refusal to conduct the evaluation

Rule 6A-6.03311, F.A.C., Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities

- Rule 6A-6.03311(3)(b) , F.A.C. – States that the right to inspect and review education records under this rule includes the right to have a representative of the parent inspect and review the records
- Rule 6A-6.03311(8)(a) , F.A.C. – States that, upon the transfer of rights for a student with a disability who reaches the age of eighteen (18), the right to notice under all SBE rules related to ESE services is retained as a shared right of the parent and the student, including the right to notice of a meeting

Rule 6A-6.03312, F.A.C., Discipline Procedures for Students with Disabilities

- Rule 6A-6.03312(5)(b) , F.A.C. – Requires that students with disabilities who are suspended or expelled from school or placed in an interim alternative educational setting (IAES) must continue to receive educational services, including homework assignments in accordance with S. 1003.01, Florida Statutes

B. Supplementary Language in Florida SBE Rule Not Included in IDEA or the Implementing Regulations

Rule 6A-6.03028, Florida Administrative Code (F.A.C.), Provision of Free Appropriate Public Education and Development of Individual Educational Plans for Students with Disabilities.

- Rule 6A-6.03028(3)(a) , F.A.C. – This rule includes a section delineating the role of parents as partners in developing IEPs, including: providing critical information regarding the strengths of their student; expressing their concerns for enhancing the education of their student so that their student can receive a free appropriate public education; participating in discussions about the student’s need for special education and related services; participating in the determination of how the student will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments; participating in the determination of what services the school district will provide the student and in what setting; and participating in the determination of whether the student is pursuing a course of study leading towards a standard diploma
- Rule 6A-6.03028(3)(m) , F.A.C. – This rule retains language from IDEA 1999 regarding IEP implementation and accountability, stating that:
 - The school district is responsible for providing special education to students with disabilities in accordance with the students’ IEPs
 - It is not required that the school district, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives
 - An IEP must be in effect before special education and related services are provided to an eligible student, and must be implemented as soon as possible following the IEP meeting
 - The school district must make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed on the IEP
 - Nothing in this section limits a parent’s right to ask for revisions of the child’s IEP or to invoke due process procedures

Rule 6A-6.03411, F.A.C., Definitions, ESE Policies and Procedures, Document and ESE Administrators

- Rule 6A-6.03411(1) , F.A.C. – This rule includes the following definitions not found in IDEA or the implementing regulations:
 - Accommodations. Accommodations are changes that are made in how the student accesses information and demonstrates performance
 - Behavioral intervention plan (BIP). Behavioral intervention plan means a plan for a student which uses positive behavior interventions, supports and other strategies to address challenging behaviors and enables the student to learn socially appropriate and responsible behavior in school and/or educational settings
 - Exceptional Student. Exceptional student means any student who has been determined eligible for a special program in accordance with these rules. The term includes students who are gifted and students with disabilities as defined in these rules
 - Exceptional Student Education (ESE). Exceptional Student Education means specially designed instruction and related services that are provided to meet the unique needs of exceptional students who meet the eligibility criteria described in these rules
 - Functional behavioral assessment (FBA). A functional behavioral assessment is a systematic process for defining a student’s specific behavior and determining the reason why (function or purpose) the behavior is occurring. The FBA process includes examination of the contextual variables (antecedents and consequences) of the behavior, environmental components, and other information related to the behavior. The purpose of conducting an FBA is to determine whether a Behavioral intervention plan should be developed
 - Modifications. Modifications are changes in what a student is expected to learn and may include changes to content, requirements, and expected level of mastery
- Rule 6A-6.03411(2) , F.A.C. – The rule describes the requirement under Section 1003.57(1)(d) , Florida Statutes, that districts develop a written statement of policies and procedures for providing

appropriate exceptional student education services (SP&P) and submit that written statement to the designated office in the Department of Education.

- Rule 6A-6.03411(3), F.A.C. – This rule requires that each school district designate an administrator of exceptional student education.