

Substantial rewording of Rule 6A-6.03411 follows. (See Florida Administrative Code for present text.)

6A-6.03411 ~~Special Programs and Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students.~~ This rule shall apply beginning with the procedures documents submitted for the 2004-05 school year and thereafter, in accordance with Section 1003.57(4), Florida Statutes. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to a free appropriate public education (FAPE) consistent with the requirements of Title 34, Sections 300.300-300.313, Code of Federal Regulations (CFR). FAPE shall be available to any individual student with a disability who needs special education and related services, even though the student is advancing from grade to grade. The only exceptions to the provision of FAPE are for students who have exited with a standard diploma or the equivalent and certain students who are incarcerated in an adult correctional facility as referenced in 34 CFR 300.122 and 300.311. For a school district or agency to be eligible to receive state or federal funding for specially designed instruction and related services for exceptional students, it shall: develop a written statement of policies for providing an appropriate program of specially designed instruction and related services, as required by Section 1003.57(4), Florida Statutes;

submit its written statement of procedures to the designated office in the Department of Education; and report the total number of exceptional students in the manner prescribed by the Department. Applicable state statutes, State Board of Education rules, and federal laws and regulations relating to the provision of specially designed instruction and related services to exceptional students shall serve as criteria for the review and approval of the procedures documents. This procedures document is intended to provide district and school-based personnel, parents of exceptional students, and other interested persons information regarding the implementation of the state's and local school board's policies regarding exceptional student education programs. The procedures document shall be submitted in accordance with timelines required by the Department and shall include, but not be limited to, the requirements specified in subsections (2) - (5) of this rule.

(1) Definitions.

(a) Exceptional Student Education (ESE). ESE refers to the specially designed instruction that is provided to meet the unique needs of exceptional students who meet the eligibility criteria described in Rules 6A-6.03011 through 6A-6.03027, FAC.

(b) Early Intervention. Early intervention means developmental services that are designed to meet the developmental needs of an infant or toddler with a disability in

any one (1) or more of the following areas:

1. physical development;
2. cognitive development;
3. communication development;
4. social or emotional development; or
5. adaptive development.

(c) Special education. Special education refers to the specially designed instruction and related services, as defined in paragraphs (1)(d) and (e) of this rule, provided, at no cost to the parents, to meet the unique needs of students with disabilities. Special education includes instruction in the classroom, the home, in hospitals and institutions, and in other settings.

(d) Specially-Designed Instruction. Specially-designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, and/or delivery of instruction:

1. To address the unique needs of the student that result from the student's disability or giftedness; and
2. To ensure access to the general curriculum, so that the student can meet the district's expected proficiency levels, as appropriate.

(e) Related Services. Related services means transportation and such developmental, corrective, and other

supportive services as are required to assist a child with a disability to benefit from special education, and includes audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

(f) Free Appropriate Public Education (FAPE). FAPE refers to special education and related services for students ages three (3) through twenty-one (21) that:

1. Are provided at public expense under the supervision and direction of the local school board without charge to the parent;

2. Meet the standards of the Department of Education;

3. Include preschool, elementary, or secondary programs in the state; and

4. Are provided in conformity with an individual educational plan (IEP) for students with disabilities that meet the requirements of Rule 6A-6.03028, FAC., or an educational plan (EP) for students who are gifted that meet the requirements of Rule 6A-6.030191, FAC., or a family support plan for students

aged three (3) through five (5) in accordance with Rule 6A-6.03029, FAC.

(g) Screening. Screening is a process for ruling out sensory deficits that may interfere with the student's academic and behavioral progress as described in paragraph (2)(e) of Rule 6A-6.0331, FAC.

(h) General education interventions. General education interventions are required activities to address and resolve a student's learning or behavioral areas of concern prior to a referral for evaluation to determine eligibility for a student suspected of having a disability.

(i) Referral. Referral is the process whereby a written request is made for a formal individual evaluation to determine a student's eligibility for specially designed instruction and related services.

(j) Student evaluation. Student evaluation is the systematic examination of all areas related to the student's needs, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic and classroom performance, communicative status, and motor abilities.

(k) Dismissal. Dismissal is the process whereby a student is determined to no longer be in need of exceptional student education after the completion of the reevaluations described in subsection (7) of Rule 6A-6.0331, FAC.

(2) Provision of Specially Designed Instruction and Related Services. Specially designed instruction is required for each exceptional student and may be provided directly, in cooperation with other school districts or agencies, or through contractual arrangements with private schools.

(3) General Procedures. General procedures shall be implemented in accordance with Rule 6A-6.0331, FAC.

(a) Procedures for placement in the least restrictive environment. Procedures for placement determination shall be made in accordance with 34 CFR 300.552-300.553 and shall include consideration of the following:

1. To the maximum extent appropriate, students with disabilities in public or private institutions or other facilities are educated with students who are not disabled;

2. Special classes, separate schooling or other removal of exceptional students from the regular educational environment occurs only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

3. A continuum of alternative placements, including regular class placement, is provided for exceptional students consistent with subsection (1) of Rule 6A-6.0311, FAC.

(b) Procedures for screening. Minimum requirements are:

1. Screening for vision and hearing problems shall be in accordance with the school district's school health plan and consistent with the requirements of paragraph (2)(e) of Rule 6A-6.0331, FAC.

2. Notwithstanding the provisions of Rules 6A-6.03011 through 6A-6.03018, 6A-6.03021 through 6A-6.03023, and 6A-6.03027, FAC., screening for speech, language, hearing, and vision shall be required prior to conducting an evaluation to determine the student's eligibility as a student with a disability.

(c) Procedures for general education interventions. The procedures for general education interventions shall be consistent with the requirements of Rule 6A-6.0331(2), FAC.

(d) Procedures for referral. Procedures for referral shall be consistent with the requirements of Rule 6A-6.0331(3), FAC.

(e) Procedures for student evaluation shall be implemented in accordance with the requirements of Rule 6A-6.0331, FAC.

(f) Procedures for determining eligibility. Procedures for determining eligibility shall include:

1. Determining eligibility for students with disabilities, in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the student has a disability, in accordance with eligibility criteria specified in Rules 6A-6.03011 through 6A-6.03018, 6A-6.03020 through 6A-

6.03027, and 6A-6.03030 through 6A-6.03031, FAC., and needs specially designed instruction and related services.

2. Determining eligibility for students who are gifted, in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the student is gifted in accordance with eligibility criteria specified in Rule 6A-6.03019, FAC., and needs specially designed instruction.

3. For local school boards who elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Intervention Program, determining eligibility for infants and toddlers with disabilities in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the infant or toddler has a disability in accordance with the definition found in subparagraph (2)(a)1. of Rule 6A-6.03026, FAC. and needs early intervention services.

(g) Procedures for providing an individual educational plan (IEP), educational plan (EP), or family support plan (FSP), in accordance with Rules 6A-6.03028, 6A-6.030191, and 6A-6.03029, FAC.

(h) Procedures for temporary assignment of transferring exceptional students, in accordance with Rule 6A-6.0334, FAC.

(i) Procedures for reevaluation of students with disabilities in accordance with the requirements of subsection

(7) of Rule 6A-6.0331, FAC.

(j) Procedures for participation of students with disabilities in statewide assessment, as required by Section 1008.22, Florida Statutes, including alternate assessment, in accordance with Rule 6A-1.0943, FAC.

(k) Procedures for dismissal.

(l) Procedures for the provision of procedural safeguards, in accordance with Rules 6A-6.03311, 6A-6.03032, and 6A-6.03313, FAC.

(m) Procedures for the transfer of rights for students with disabilities, in accordance with subsection (10) of Rule 6A-6.03311, FAC.

(n) Procedures for the provision of specially designed instruction and related services to students with disabilities enrolled in private schools by their parents shall be provided in accordance with 34 CFR 300.403 and 300.451-300.462.

1. Upon request, school districts shall provide parents of students with disabilities enrolled in private schools information regarding the availability of specially designed instruction and related services from the local school board consistent with the provisions of 34 CFR 300.450 - 300.455.

2. The location of any specially designed instruction and related services provided to these students shall be consistent with the requirements of 34 CFR 300.456, determined as a

component of the service plan, and made in consultation with the parents and the participating private school. The determination of location shall be made after consideration of the needs of the student, the scheduling of the services to minimize disruption of instruction and the associated costs to the school board.

3. Specially designed instruction provided by the local school board to these students shall be consistent with the students' services plans, in accordance with Rule 6A-6.030281, FAC.

(o) Procedures for providing information and services to parents of students with disabilities eligible for opportunity scholarships, in accordance with Section 1002.38, Florida Statutes, and participating private schools. The Department of Education shall provide information and assistance to private schools regarding the identification and provision of special services to participating students and the creation of a fee schedule for these services. The Department of Education shall also provide parents of students with disabilities eligible for opportunity scholarships information on the availability of specially designed instruction and related services from the local school board. School districts shall:

1. Include representatives from participating private schools in determining the specially designed instruction and related services that will continue to be available to

participating students with disabilities.

2. Provide parents of students with disabilities eligible for opportunity scholarships information on the availability of specially designed instruction and related services from the local school board.

3. Determine the location of the specially designed instruction and related services consistent with subparagraph (3)(n) 2., of this rule. Special education services provided by the local school board to students with disabilities participating in the opportunity scholarship program shall be consistent with the students' services plans and Rule 6A-6.030281, FAC.

4. Expenditure of funds for services provided to these students shall be made in accordance with 34 CFR 300.453.

(p) Procedures for evaluating exceptional student education programs which shall include those areas identified by the Department of Education's continuous monitoring activities.

(q) Procedures for the provision of training to district and school-based administrators regarding the provision of specially designed instruction and related services to exceptional students.

(r) Discipline procedures for students with disabilities in accordance with Rule 6A-6.03312, FAC.

(s) Provision of extended school year services to

eligible students with disabilities.

(t) Procedures for the provision of surrogate parents in accordance with Rule 6A-6.0333, FAC.

(6) Procedures for the delivery of specially designed instruction and related services to eligible exceptional students or early intervention services to eligible infants and toddlers with disabilities in accordance with Rules 6A-6.03011 through 6A-6.03027, and 6A-6.03030 through 6A-6.03031, FAC., which shall include:

(a) Criteria for eligibility.

(b) Any procedures for screening, referral, student evaluation, determination of eligibility, development of the individual educational plan, educational plan, or family support plan, reevaluation, or dismissal which are different from or in addition to the procedures described in subsection (3) of this rule.

(c) Instructional program to include philosophy, curriculum, and instructional support.

(7) Assurances. Assurances of the district school board or agency for meeting the requirements regarding:

(a) Written agreements in accordance with Rule 6A-6.0311(3)(a)-(b), FAC.,

(b) Contractual arrangements with private schools or community facilities in accordance with Rule 6A-6.0361, FAC.,

(c) Child find activities to include the identification, location, and evaluation of all children residing in the state, including children with disabilities attending private schools, regardless of the severity of their disability, who are in need of specially designed instruction and related services. These procedures apply to highly mobile children with disabilities (such as migrant or homeless children) and children suspected of having a disability and in need of specially designed instruction even though they are advancing from grade to grade.

(d) Confidentiality of student records in accordance with Section 1002.22, Florida Statutes, Rule 6A-1.0955, FAC., and the notice to parents required by 34 CFR 300.561 and 300.573.

(e) Transition of children with disabilities from an early intervention program for infants and toddlers with disabilities to specially designed instruction and related services provided by the school board.

(f) Specially designed instruction and related services provided to students with disabilities enrolled in private schools by the school board in consultation with the students' parents and consistent with the requirements of Rule 6A-6.0361, FAC.

(g) Provision of nonacademic and extra curricular activities to ensure that each student with a disability participates with non-disabled children in those services and

activities to the maximum extent appropriate to the needs of that child in accordance with 34 CFR 300.553.

(h) Opportunity scholarships that are provided in accordance with Section 1002.38, Florida Statutes. The local school board or the private school who provides the specially designed instruction and related services to participating students with disabilities shall receive the funding for these services as provided by Sections 1011.62(1)(e) and 1002.38(6), Florida Statutes.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(4)(5) ~~229.053(1), 230.23(4)(m)4.~~ FS. Law Implemented 1001.42(4)(1), 1003.01(3)(a)(b), 1002.38, 1001.03(8), 1003.57(4), 1011.62(1)(c) ~~228.041(18)(19), 229.565(3)(b)(c), 230.23(4)(m)4., 236.081(1)(c)~~ FS. History - New 11-18-84, Amended 10-1-85, Formerly 6A-6.3411, Amended 12-14-93, c.f. PL105-17, 20 USC S.1401 et seq., 34 CFR, Parts 76 and 300. ~~PL 94-142, 20 USC S.1401 et seq., 34 C.F.R. Parts 76 and 300.~~

Formerly 6A-6.3411, Amended 12-14-93, 9-3-01.

c.f. PL 105-17, 20 USC S.1401 et seq., 34 C.F.R. Parts 76 and 300.

**6A-6.03411 Special Programs and Procedures for Exceptional Students.**

This rule shall apply beginning with the proposed special programs and procedures documents submitted for the 1985-86 school year, as referenced in Rule 6A-6.03411(5), FAC. For a district or agency under contract to the Department to utilize the cost factors for special programs for exceptional students to generate funds it shall: develop a written statement of procedures for providing an appropriate program of special instruction, as required by Section 230.23(4)(m), Florida Statutes; submit its written statement of special programs and procedures to the Deputy Commissioner for Educational Programs for approval; and report to the Deputy Commissioner for Educational Programs, the total number of students in the district receiving instruction in each special program for exceptional students in the manner prescribed by the Department. State Board Rules relating to special programs for exceptional students shall serve as criteria for the review and approval of special programs and procedures documents. The document shall be submitted in accordance with timelines required by the division of public schools for approval prior to the 1985-86 school year and each subsequent year, and shall include the following:

(1) Provision for Special Programs. Special programs are required for each type of exceptional student and may be provided directly, in cooperation with other school districts or agencies, or through contractual arrangements with nonpublic schools.

(2) General Procedures.

(a) Procedures shall ensure that segregation of exceptional students occurs only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily and shall show a continuum of alternative placements consistent with Rule 6A-6.0311, FAC.

(b) Procedures for screening. Screening is that process by which a rapid assessment is made to identify candidates for formal evaluation. Minimum requirements are:

1. Screening for vision and hearing problems shall be in accordance with the district's school health plan.

2. Speech, language, hearing, and vision screening shall be required prior to considering the eligibility of a student for any special program except gifted, occupational or physical therapy, and homebound or hospitalized.

(c) Procedures for prereferral activities. Prereferral activities are those activities which address student learning problems at the school level prior to referral, whenever appropriate, or as required by Rules 6A-6.03011 through 6A-6.03031, FAC.

(d) Procedures for referral. Referral is the process whereby a written request is made for a formal evaluation of students who are suspected of needing special

programs.

(e) Procedures for student evaluation. Student evaluation is the systematic examination of the medical, physical, psychological, social, or educational characteristics of the student by evaluation specialists.

(f) Procedures for determining eligibility. Determining eligibility is the process in accordance with Rule 6A-6.0331(2)(3), FAC., whereby professionals review student data to determine whether or not the student meets the criteria for eligibility for a special program.

(g) Procedures for providing an individual educational plan or family support plan, in accordance with Rules 6A-6.03028 and 6A-6.03029, FAC.

(h) Procedures for temporary assignment of transferring exceptional students, in accordance with Rule 6A-6.0334, FAC.

(i) Procedures for re-evaluation. Re-evaluation is the process whereby information about a student is gathered and reviewed to determine the need for continuation in the special program. The following steps are required:

1. An evaluation specialist and an exceptional student teacher shall examine available information in all areas addressed in the initial evaluation or in subsequent re-evaluations of the student and shall make the appropriate referral(s) for one or more formal evaluations based on their examination and the requirements of Rules 6A-6.03011 through 6A-6.03031, FAC. When necessary, another member of the instructional or supervisory staff may substitute for the exceptional student teacher.

2. A meeting of the individual educational plan committee or the staffing committee shall be convened to review all available information about the student including reports from the additional evaluations, and to consider the need for continuation in the special program. If the student is to continue in the special program(s), the student's individual educational plan or family support plan shall be reviewed in accordance with Rules 6A-6.03028 and 6A-6.03029, FAC.

3. If the re-evaluation indicates that the special program is no longer needed or that program changes may be warranted, the applicable dismissal or eligibility staffing procedures shall be followed.

(j) Procedures for dismissal. Dismissal is the process whereby a student is removed from a special program.

(k) Procedures for procedural safeguards for exceptional students, in accordance with Rule 6A-6.03311, FAC.

(l) Plan for evaluation of the special programs.

(3) Procedures for each special program, in accordance with Rules 6A-6.03011 through 6A-6.03031, FAC., including:

(a) Criteria for eligibility.

(b) Any procedures for screening, referral, student evaluation, determination of eligibility, development of the individual educational plan, re-evaluation, or dismissal

which are different from or in addition to the procedures in (c) Instructional program. Philosophy, curriculum, and instructional support.

(4) Assurances. Assurances of the district school board or agency for meeting requirements for:

(a) Written agreements in accordance with Rule 6A-6.0311(3)(a)-(b), FAC.,

(b) Contractual arrangements with nonpublic schools in accordance with Rule 6A-6.0361, FAC.,

(c) Surrogate parents in accordance with Rule 6A-6.0333, FAC.

(d) Discipline in accordance with Rule 6A-6.0331(6), FAC.

(5) Form ESE 017, Special Programs and Procedures for Exceptional Students, effective September, 1985, is incorporated by reference and made a part of this rule. This form may be obtained from the Administrator of Information Services and Accountability, Division of Public Schools, Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

Specific Authority 229.053(1), 230.23(4)(m)4. FS. Law Implemented 228.041(18)(19), 229.565(3)(b)(c), 230.23(4)(m)4., 236.081(1)(c) FS. History - New 11-18-84, Amended 10-1-85, Formerly 6A-6.3411, Amended 12-14-93.

c.f. PL 94-142, 20 USC S.1401 et seq., 34 C.F.R. Parts 76 and 300.

the general section.