

Rule 6A-6.03411 is substantially rewritten to read (see Florida Administrative Code for present text).

6A-6.03411 Definitions, ESE Policies and Procedures, and ESE Administrators Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students.

(1) Definitions. As used in Rules 6A-6.03011 through 6A-6.0361, FAC., regarding the education of exceptional students, the following definitions apply:

(a) Accommodations. Accommodations are changes that are made in how the student accesses information and demonstrates performance.

(b) Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device.

(c) Assistive technology service. Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. Training or technical assistance for a student with a disability or, if appropriate, that student's family; and

6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that student.

(d) 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.

(e) Charter school. Charter school means a school that is a public school created under Florida's charter school law, Section 1002.33, Florida Statutes.

(f) Child/student with a disability.

1. Student with a disability means a student, including a child aged three (3) through five (5), who has been evaluated in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC., and determined to have a disability as defined under Rules 6A-6.03011 through 6A-6.03027, FAC., but does not include students who are gifted as defined under Rules 6A-6.03019 through 6A-6.030191, FAC.; and

2. Who, by reason thereof, needs special education and related services. If it is determined, through an appropriate evaluation, that a student has a disability but only needs a related service and not special education, the student is not a student with a disability under Rules 6A-6.03011

through 6A-6.0361, FAC. If, however, the related service required by the student is considered special education rather than a related service under Rules 6A-6.03011 through 6A-6.0361, FAC., the student would be a student with a disability under this subsection.

(g) Consent. Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(h) Day; business day; school day. Day means calendar day unless otherwise indicated as business day or school day. Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day). School day means any day, including a partial day, that students are in attendance at school for instructional purposes. School day has the same meaning for all students in school, including students with and without disabilities.

(i) 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.

(j) Educational plan (EP). EP is a plan that is developed for students identified solely as gifted and is developed pursuant to Rule 6A-6.030191, FAC.

(k) Elementary school. Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education as determined under Florida law.

(l) Evaluation. Evaluation means procedures used in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC., to determine whether a student has a disability or is gifted and the nature and extent of the ESE that the student needs.

(m) 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.

(n) Exceptional student education (ESE). ESE 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 Rules 6A-6.03011 through 6A-6.0361, FAC.

(o) Extended school year services. Extended school year services means special education and related services that are provided to a student with a disability beyond the normal school year of the school district; in accordance with the student's IEP; at no cost to the parents of the student; and meet the standards of the Florida Department of Education.

(p) Free appropriate public education (FAPE). FAPE means special education or specially designed instruction and related services for students ages three (3) through twenty-one (21) and for students who are gifted and in kindergarten through grade twelve that:

1. Are provided at public expense, under public supervision and direction, and without charge to the parent;
2. Meet the standards of the Florida Department of Education, including the requirements of 6A-6.03011 through 6A-6.0361, FAC.;
3. Include an appropriate preschool, elementary school, or secondary school education in the State; and
4. Are provided in conformity with an individual educational plan (IEP) that meets the requirements of rule 6A-6.03028, FAC., an educational plan (EP) for students who are gifted that meet the requirements of Rule 6A-6.030191, FAC., or an individual family support plan (IFSP) (if used as an IEP) for children ages three (3) through (5) in accordance with Rule 6A-6.03929, FAC.

(q) Functional behavioral assessment (FBA). A FBA 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.

(r) General curriculum. The general curriculum is a curriculum or course of study based upon state educational standards that address the state and school district requirements for a standard diploma.

(s) Homeless student or youth. Homeless student or youth means an individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. Students and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

2. Students and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

3. Students and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

4. Migratory students who qualify as homeless for the purposes of 6A-6.03011 through 6A-6.0361, FAC., because they are living in circumstances described in paragraphs (a) through (c) of this subsection.

(t) Include/including. Include or including means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(u) Individual educational plan (IEP). IEP means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC.

(v) Individual educational plan (IEP) team. IEP team means a group of individuals as described in 6A-6.03011 through 6A-6.0361, FAC., that is responsible for developing, reviewing, or revising an IEP for a student with a disability.

(w) Individualized family support plan (IFSP). IFSP is a written plan identifying the specific concerns and priorities of a family related to enhancing their child's development and the resources to provide early intervention services to an infant or toddler with a disability.

(x) Infant or toddler with a disability. Infant or toddler with a disability means a child under three (3) years of age who needs early intervention services because the child is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(y) Limited English proficient. Limited English proficient, when used in reference to an individual, means an individual who was not born in the United States and whose native language is a language other than English; an individual who comes from a home environment where a language other than English is spoken in the home; or an individual who is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language that would deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English.

(z) Modifications. Modifications are changes in what a student is expected to learn and may include changes to content, requirements, and expected level of mastery.

(aa) Native language. Native language, when used with respect to an individual who is limited English proficient, means the language normally used by that individual, or, in the case of a student, the language normally used by the parents of the student, and in all direct contact

with a student (including evaluation of the student), the language normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

(bb) Parent.

1. Parent means:

a. A biological or adoptive parent of a student;

b. A foster parent;

c. A guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student (but not the state if the student is a ward of the State);

d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare; or

e. A surrogate parent who has been appointed in accordance with 6A-6.03011 through 6A-6.0361, FAC.

2. The biological or adoptive parent, when attempting to act as the parent under this section and when more than one (1) party is qualified under paragraph (a) of this subsection to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the student.

However, if a judicial decree or order identifies a specific person or persons under subparagraphs (bb)1.a. through 1.d. of this subsection to act as the "parent" of a student or to make educational decisions on behalf of a student, then such person or persons shall be determined to be the "parent" for purposes of this subsection.

(cc) Personally identifiable. Personally identifiable means information that contains:

1. The name of the student, the student's parent, or other family member;
2. The address of the student;
3. A personal identifier, such as the student's social security number or student number; or
4. A list of personal characteristics or other information that would make it possible to

identify the student with reasonable certainty.

(dd) Related services.

1. General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

2. Exception; services that apply to students with surgically implanted devices, including cochlear implants. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. However, nothing in this section limits the right of a student with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this subsection) that are determined by the IEP Team to be necessary for the student to receive FAPE; limits the responsibility of a school district to appropriately monitor

and maintain medical devices that are needed to maintain the health and safety of the student, including breathing, nutrition, or operation of other bodily functions, while the student is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly.

3. Individual related services terms defined. The terms used in this definition are defined as follows:

a. Audiology includes identification of students with hearing loss; determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; creation and administration of programs for prevention of hearing loss; counseling and guidance of students, parents, and teachers regarding hearing loss; and determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. Early identification and assessment of disabilities in students means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

d. Interpreting services include the following, when used with respect to students who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, such as communication access real-time translation (CART), C-Print, and TypeWell; and special interpreting services for students who are deaf-blind.

e. Medical services means services provided by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services.

f. Occupational therapy means services provided by a licensed occupational therapist or a licensed occupational therapy assistant pursuant to the provisions of Section 486.203, Florida Statutes, that include improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; improving ability to perform tasks for independent functioning if functions are impaired or lost; and preventing, through early intervention, initial or further impairment or loss of function.

g. Orientation and mobility services means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community and includes teaching students the following, as appropriate:

(I) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(II) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision;

(III) To understand and use remaining vision and distance low vision aids; and

(IV) Other concepts, techniques, and tools.

h. Parent counseling and training means assisting parents in understanding the special needs of their student; providing parents with information about child development; and helping

parents to acquire the necessary skills that will allow them to support the implementation of their student's IEP or IFSP.

i. Physical therapy means services provided by a qualified physical therapist. Physical therapy must be provided in accordance with Chapter 486, Florida Statutes.

j. Psychological services includes administering psychological and educational tests, and other assessment procedures; interpreting assessment results; obtaining, integrating, and interpreting information about student behavior and conditions relating to learning; consulting with other staff members in planning school programs to meet the special educational needs of students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations; planning and managing a program of psychological services, including psychological counseling for students and parents; and assisting in developing positive behavioral intervention strategies.

k. Recreation includes assessment of leisure function; therapeutic recreation services; recreation programs in schools and community agencies; and leisure education.

l. Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

m. School health services and school nurse services means health services that are designed to enable a student with a disability to receive FAPE as described in the student's IEP. School

nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

n. Social work services in schools includes preparing a social or developmental history on a student with a disability; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and assisting in developing positive behavioral intervention strategies.

o. Speech-language pathology services includes identification of students with speech or language impairments; diagnosis and appraisal of specific speech or language impairments; referral for medical or other professional attention necessary for the habilitation of speech or language impairments; provision of speech and language services for the habilitation or prevention of communicative impairments; and counseling and guidance of parents, students, and teachers regarding speech and language impairments.

p. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with a disability.

(ee) School district/local education agency. As used in Rules 6A-6.03011 through 6A-6.0361, FAC., school district means a public board of education or other public authority legally constituted within the State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in the State as an administrative agency for its public elementary

schools or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(ff) Scientifically based research. Scientifically based research means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs, and includes research that:

1. Employs systematic, empirical methods that draw on observation or experiment;
2. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
3. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
4. Is evaluated using experimental or quasi-experimental designs;
5. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication; and
6. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(gg) Secondary school. Secondary school means a nonprofit institutional day or residential school, including a public charter school that provides secondary education, as determined under Florida law, except that it does not include any education beyond grade twelve (12).

(hh) Services plan. Services plan means a written statement that has been developed and implemented in accordance with Rule 6A-6.030281, FAC., describes the special education and related services that a school district will provide to a parentally-placed student with a disability

enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary.

(ii) Secretary. Secretary means the U.S. Secretary of Education.

(jj) Specially designed instruction. Specially designed instruction means adapting, as appropriate to the needs of an eligible exceptional student, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability or giftedness and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the school district that apply to all students.

(kk) Special education for students with disabilities.

1. Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability, including:

a. Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

b. Instruction in physical education.

2. Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a) of this subsection:

a. Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

b. Travel training; and

c. Vocational education.

3. Individual special education terms defined. The terms in this definition are defined as follows:

a. At no cost means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

b. Physical education means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term also includes special physical education, adapted physical education, movement education, and motor development.

c. Travel training means providing instruction, as appropriate, to students with significant cognitive disabilities, and any other students with disabilities who require this instruction, to enable them to develop an awareness of the environment in which they live and learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

d. Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

(ll) State educational agency (SEA). SEA means the Florida Department of Education.

(mm) Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, or other education-related settings, and in extracurricular and nonacademic settings, to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC.

(nn) Transition services. Transition services means a coordinated set of activities for a student with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; and

2. Is based on the individual student's needs, taking into account the student's strengths, preferences and interests; and

3. Includes:

a. Instruction;

b. Related services;

c. Community experiences;

d. The development of employment and other post-school adult living objectives; and

e. If appropriate, acquisition of daily living skills and the provision of a functional vocational evaluation, and

4. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.

(oo) Ward of the State. Ward of the State means a student who is a foster child, a ward of the State or in the custody of a public child welfare agency. However, ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in this rule.

(2) ESE Policies and Procedures Document. For a school district to be eligible to receive state or federal funding for special education and related services for exceptional students, it shall: develop a written statement of policies and procedures for providing appropriate ESE in

accordance with and as required by Rules 6A-6.03011 through 6A-6.0361, FAC., and as required by Section 1003.57(1)(d) , Florida Statutes; submit its written statement to the Bureau of Exceptional Education and Student Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400; 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 ESE 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 school district's policies regarding ESE programs. The procedures document shall be submitted in accordance with timelines required by the Department.

(3) ESE Administrator.

(a) Each school district shall designate a staff member to serve as administrator of exceptional student education who shall be responsible for the following:

1. Coordinating all school district services for exceptional students;
2. Ensuring that parents have been appropriately informed of their student's eligibility determination and their procedural safeguards in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC.
3. Informing, in writing, all appropriate school personnel, including the principal, of the student's eligibility for special education and related services; and
4. Ensuring the implementation of services to exceptional students.

(b) The ESE Administrator is authorized to delegate the responsibilities of this rule.

Specific Authority 1001.02(1)(2)(n), 1003.01(3), 1003.57, F.S. Law Implemented 1001.42(4)(l),

1003.01(3), 1002.38, 1001.03(8), 1003.57, 1011.62(1)(c) F.S. History - New 11-18-84, Amended
10-1-85, Formerly 6A-6.3411, Amended 12-14-93, 10-17-2004,