

## **STATE BOARD OF EDUCATION**

### **Action Item**

June 17, 2008

**SUBJECT:** Approval of Proposed Amendments to Rules Relating to Exceptional Student Education: Rule 6A-6.03028, Provision of Free Appropriate Public Education and Development of Individual Educational Plans for Students with Disabilities  
Rule 6A-6.030281, Provision of Equitable Services to Parentally-Placed Private School Students with Disabilities  
Rule 6A-6.0331, General Education Intervention Procedures, Identification, Evaluation, Reevaluation, and the Initial Provision of Exceptional Education Services  
Rule 6A-6.03311, Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities  
Rule 6A-6.03312, Discipline Procedures for Students with Disabilities  
Rule 6A-6.03314, Procedural Safeguards for Students with Disabilities Enrolled in Private Schools by Their Parents (Repeal)  
Rule 6A-6.0333, Surrogate Parents  
Rule 6A-6.0334, IEPs and EPs for Transferring Exceptional Students  
Rule 6A-6.03411, Definitions, ESE Policies and Procedures, and ESE Administrators

### **PROPOSED BOARD ACTION**

For Approval

### **AUTHORITY FOR STATE BOARD ACTION**

Sections 1001.02, 1003.01(3)(a)-(b), 1003.55, 1003.57, Florida Statutes

### **BACKGROUND INFORMATION**

States are required to ensure that their state policies, including statutes and regulations, are consistent with the final Part B regulations implementing the Individuals with Disabilities Education Act (IDEA). In December 2004, IDEA was significantly amended and on October 13, 2006, the implementing regulations became effective. As a result, Florida's existing rules, developed in response to IDEA 1997, do not align with the current federal regulations.

These amendments are proposed in order to align Florida's administrative rules related to the provision of services to students with disabilities with the 2004 reauthorization of the IDEA and its implementing regulations and to minimize the number of rules to which local education agencies (LEAs) and schools in Florida are subjected.

### **6A-6.03028, Provision of Free Appropriate Public Education and Development of Individual Educational Plans for Students with Disabilities**

These amendments combine into a single rule all of the federal requirements related to the provision of a free appropriate public education (FAPE) and the development of individual educational plans (IEPs) for students with disabilities.

### **6A-6.030281, Provision of Equitable Services to Parentally-Placed Private School Students with Disabilities**

The new federal regulations contain extensive changes related to the provision of equitable services to parentally-placed students with disabilities. These amendments reflect deletion of all existing language, with new language designed to mirror the federal regulations at 34 CFR 300.130 – 300.144.

### **6A-6.0331, General Education Intervention Procedures, Identification, Evaluation, Reevaluation, and the Initial Provision of Exceptional Education Services**

The procedures related to activities required prior to referral, referral, and identification are collectively referred to as “general education intervention procedures” to conform with changes in the field related to ensuring highest student achievement for all students. These amendments align Florida’s rules with the federal regulations relative to early intervening services, identification of students who may be eligible students with disabilities, evaluation and reevaluation procedures, and the initial provision of ESE services. When appropriate, corresponding procedures relative to giftedness are included.

### **6A-6.03311, Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities**

These amendments align the requirements related to procedural safeguards and due process procedures for parents and students with disabilities with the requirements under IDEA and its implementing regulations. Specific details regarding pre-hearing and hearing procedures are proposed for deletion as they are not federal requirements and in order to provide more discretion to administrative law judges (ALJs) regarding how hearings are conducted while maintaining the minimum federal requirements.

### **6A-6.03312, Discipline Procedures for Students with Disabilities**

All of the proposed changes mirror the federal requirements at 34 CFR 300.530 – 300.536. This includes definitions that are contained in the federal regulations that supersede, for purposes of discipline of students with disabilities, definitions under state law.

### **6A-6.03314, Procedural Safeguards for Students with Disabilities Enrolled in Private Schools by Their Parents**

It is proposed that this rule be repealed. The procedural safeguards for students with disabilities enrolled in private schools by their parents are addressed in Proposed Rule 6A-6.030281(16).

### **6A-6.0333, Surrogate Parents**

The proposed changes are made to align the rule with the federal regulations at 34 CFR 300.519 and to include the assignment of surrogate parents to eligible gifted students.

### **6A.6.0334, IEPs and EPs for Transferring Exceptional Students**

The federal regulations do not contemplate a process of “temporary assignment” transferring students with disabilities as is currently the case in Florida. Rather, they require specific procedures to be followed relative to transferring students with disabilities. The existing inapplicable language is proposed for deletion and additional language to align with 34 CFR 300.323(e)-(g) is proposed for addition.

### **6A-6.03411, Definitions, ESE Policies and Procedures, and ESE Administrators**

A new “definitions” section is proposed here to define all terms related to exceptional student education, and to align Florida’s definitions with those in IDEA and its implementing regulations. Old and out-dated provisions are proposed for deletion.

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**Supporting Documentation Included:** Proposed Rules 6A-6.03028, 6A-6.030281, 6A-6.0331, 6A-6.03311, 6A-6.03312, 6A-6.03314 (Repeal), 6A-6.0333, 6A-6.0334, 6A-6.03411 and BEESS Administrative Rules Summary of Changes

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