

A Resource Manual for the  
Development and Evaluation  
of Exceptional Student Education Programs

VOLUME I-B:

# Florida Statutes and State Board of Education Rules

Excerpts Related to  
Exceptional Student Education

Florida Department of Education  
Bureau of Exceptional Education and Student Services

Revised 2014



## **Foreword**

This resource manual provides a compilation of Florida statutes and rules pertaining to exceptional student education, student services, and juvenile justice education programs. It is available online at <http://www.fl DOE.org/e se/pdf/1b-stats.pdf>.

If additional information is needed, please contact your local school board office or the Bureau of Exceptional Education and Student Services, Florida Department of Education.



## Table of Contents

### Section A: Florida Statutes Pertaining to Exceptional Student Education

<b>Chapter 1000, K-20 General Provisions</b>	<b>1</b>
1000.03          Function, mission, and goals of the Florida K-20 education system	1
1000.05          Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required	2
1000.21          Systemwide definitions	3
1000.36          Interstate Compact on Educational Opportunity for Military Children	4
 <b>Chapter 1001, K-20 Governance</b>	 <b>15</b>
1001.02          General powers of State Board of Education	15
1001.11          Commissioner of Education; other duties	17
1001.213          Office of Early Learning	18
1001.42          Powers and duties of district school board	18
1001.451          Regional consortium service organizations	24
1001.49          General powers of district school superintendent	25
1001.51          Duties and responsibilities of district school superintendent	25
1001.52          Reproduction and destruction of district school records	28
 <b>Chapter 1002, Student and Parental Rights and Educational Choices</b>	 <b>29</b>
1002.20          K-12 student and parent rights	29
1002.21          Postsecondary student and parent rights	33
1002.22          Education records and reports of K-12 students; rights of parents and students; notification; penalty	34
1002.222          Limitations on collection of information and disclosure of confidential and exempt student records	34
1002.23          Family and School Partnership for Student Achievement Act	35
1002.3105          Academically Challenging Curriculum to Enhance Learning (ACCEL) options	36
1002.33          Charter schools	37
1002.36          Florida School for the Deaf and the Blind	57
1002.38          Opportunity Scholarship Program	61
1002.385          Florida personal learning scholarship accounts	62

1002.39	The John M. McKay Scholarships for Students with Disabilities Program	67
1002.391	Auditory-oral education programs	72
1002.395	Florida Tax Credit Scholarship Program	73
1002.42	Private schools	84
1002.451	District innovation school of technology program	88
1002.51	Definitions	90
1002.53	Voluntary Prekindergarten Education Program; eligibility and enrollment	91
1002.66	Specialized instructional services for children with disabilities	92
1002.81	Definitions	92
1002.82	Office of Early Learning; powers and duties	93
1002.83	Early learning coalitions	96
1002.84	Early learning coalitions; school readiness powers and duties	97
1002.85	Early learning coalition plans	99
1002.86	School readiness program; education component	100
1002.87	School readiness program; eligibility and enrollment	100
1002.88	School readiness program provider standards; eligibility to deliver the school readiness program	101
1002.89	School readiness program; funding	102
1002.895	Market rate schedule	103
1002.91	Investigations of fraud or overpayment; penalties	104
1002.92	Child care and early childhood resource and referral	105
1002.93	School readiness program transportation services	106
1002.94	Child Care Executive Partnership Program	106
1002.95	Teacher Education and Compensation Helps (TEACH) scholarship program	107
1002.96	Early Head Start collaboration grants	107
1002.97	Records of children in the school readiness program	108
<b>Chapter 1003, Public K-12 Education</b>		<b>109</b>
1003.01	Definitions	109
1003.02	District school board operation and control of public K-12 education within the school district	111
1003.03	Maximum class size	113
1003.04	Student conduct and parental involvement	115
1003.05	Assistance to transitioning students from military families	115
1003.21	School attendance	115
1003.22	School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health	117

1003.23	Attendance records and reports	118
1003.24	Parents responsible for attendance of children; attendance policy	119
1003.25	Procedures for maintenance and transfer of student records	119
1003.26	Enforcement of school attendance	119
1003.27	Court procedure and penalties	121
1003.28	Continuation of truancy remedial activities upon transfer of student; retention of legal jurisdiction	123
1003.29	Notice to schools of court action	123
1003.31	Students subject to control of school	123
1003.32	Authority of teacher; responsibility for control of students; district school board and principal duties	124
1003.33	Report cards; end-of-the-year status	126
1003.41	Next Generation Sunshine State Standards	126
1003.4156	General requirements for middle grades promotion	127
1003.42	Required instruction	128
1003.4203	Digital materials, CAPE Digital Tool certificates, and technical assistance	129
1003.4205	Disability history and awareness instruction	130
1003.4282	Requirements for a standard high school diploma	131
1003.4285	Standard high school diploma designations	137
1003.433	Learning opportunities for out-of-state and out-of-country transfer students and students needing additional instruction to meet high school graduation requirements	137
1003.435	High school equivalency diploma program	138
1003.436	Definition of “credit”	138
1003.437	Middle and high school grading system	138
1003.438	Special high school graduation requirements for certain exceptional students	139
1003.49	Graduation and promotion requirements for publicly operated schools	139
1003.499	Florida Approved Courses and Tests (FACT) Initiative	139
1003.4995	Fine arts report	141
1003.51	Other public educational services	141
1003.52	Educational services in Department of Juvenile Justice Programs	143
1003.53	Dropout prevention and academic intervention	147
1003.54	Teenage parent programs	149
1003.55	Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students	150

1003.56	English language instruction for limited English proficient students	150
1003.57	Exceptional students instruction	151
1003.571	Instruction for exceptional students who have a disability	154
1003.5715	Parental consent; individual education plan	154
1003.5716	Transition to postsecondary education and career opportunities	155
1003.572	Collaboration of public and private instructional personnel	155
1003.573	Use of restraint and seclusion on students with disabilities	156
1003.575	Assistive technology devices; findings; interagency agreements	157
1003.576	Individual education plans for exceptional students	158
1003.58	Students in residential care facilities	158
<b>Chapter 1004, Public Postsecondary Education</b>		<b>159</b>
1004.0961	Credit for online courses	159
1004.44	Louis de la Parte Florida Mental Health Institute	159
1004.444	Florida Center for Cybersecurity	159
1004.55	Regional autism centers; public record exemptions	160
<b>Chapter 1006, Support for Learning</b>		<b>163</b>
1006.03	Diagnostic and learning resource centers	163
1006.04	Educational multiagency services for students with severe emotional disturbance	163
1006.062	Administration of medication and provision of medical services by district school board personnel	164
1006.0625	Administration of psychotropic medication; prohibition; conditions	164
1006.07	District school board duties relating to student discipline and school safety	165
1006.08	District school superintendent duties relating to student discipline and school safety	167
1006.09	Duties of school principal relating to student discipline and school safety	168
1006.10	Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses	169
1006.13	Policy of zero tolerance for crime and victimization	170
1006.15	Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation	172



1006.165	Automated external defibrillator; user training	174
1006.21	Duties of district school superintendent and district school board regarding transportation	174
1006.22	Safety and health of students being transported	175
1006.28	Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials	177
1006.283	District school board instructional materials review process	179
1006.38	Duties, responsibilities, and requirements of instructional materials publishers and manufacturers	180
<b>Chapter 1007, Articulation and Access</b>		<b>183</b>
1007.02	Students with disabilities; definition	183
1007.2615	American Sign Language; findings; foreign-language credits authorized; teacher licensing	183
1007.2616	Computer science and technology instruction	183
1007.263	Florida College System institutions; admissions of students	184
1007.264	Persons with disabilities; admission to postsecondary educational institutions; substitute requirements; rules and regulations	184
1007.265	Persons with disabilities; graduation, study program admission, and upper-division entry; substitute requirements; rules and regulations	185
1007.27	Articulated acceleration mechanisms	185
1007.273	Collegiate high school program	186
<b>Chapter 1008, Assessment and Accountability</b>		<b>189</b>
1008.212	Students with disabilities; extraordinary exemption	189
1008.22	Student assessment program for public schools	190
1008.25	Public school student progression; remedial instruction; reporting requirements	195
1008.34	School grading system; school report cards; district grade	199
1008.3415	School grade or school improvement rating for exceptional student education centers	201
1008.44	CAPE Industry Certification Funding List and CAPE Postsecondary Industry Certification Funding List	201
<b>Chapter 1009, Educational Scholarships, Fees, and Financial Assistance</b>		<b>205</b>
1009.41	State financial aid; students with a disability	205

1009.62	Grants for teachers for special training in exceptional student education	205
1009.74	The Theodore R. and Vivian M. Johnson Scholarship Program	205
1009.893	Florida National Merit Scholar Incentive Program	205
<b>Chapter 1010, Financial Matters</b>		<b>207</b>
1010.20	Cost accounting and reporting for school districts	207
1010.215	Educational funding accountability	207
1010.305	Audit of student enrollment	209
<b>Chapter 1011, Planning and Budgeting</b>		<b>211</b>
1011.61	Definitions	211
1011.62	Funds for operation of schools	213
1011.622	Adjustments for students without a Florida student identification number	226
1011.68	Funds for student transportation	226
1011.685	Class size reduction; operating categorical fund	227
1011.70	Medicaid certified school funding maximization	227
1011.75	Gifted education exemplary program grants	228
1011.84	Procedure for determining state financial support and annual apportionment of state funds to each Florida College System institution district	228
<b>Chapter 1012, Personnel</b>		<b>231</b>
1012.01	Definitions	231
1012.07	Identification of critical teacher shortage areas	232
1012.22	Public school personnel; powers and duties of the district school board	233
1012.27	Public school personnel; powers and duties of district school superintendent	235
1012.37	Education paraprofessionals	236
1012.42	Teacher teaching out-of-field	236
1012.44	Qualifications for certain persons providing speech-language services	236
1012.55	Positions for which certificates required	236
1012.56	Educator certification requirements	237
1012.565	Educator certification for blind and visually impaired students	242

1012.582	Continuing education and inservice training for teaching students with developmental disabilities	242
1012.585	Process for renewal of professional certificates	243
1012.586	Additions or changes to certificates; duplicate certificates	244
<b>Chapter 39, Proceedings Relating to Children</b>		<b>247</b>
39.0016	Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability	247
39.201	Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline	250
<b>Chapter 381, Public Health: General Provisions</b>		<b>255</b>
381.0056	School health services program	255
381.88	Emergency allergy treatment	257
381.885	Epinephrine auto-injectors; emergency administration	257
<b>Chapter 402, Health and Human Services; Miscellaneous Provisions; Etc.</b>		<b>259</b>
402.22	Education program for students who reside in residential care facilities operated by the Department of Children and Families or the Agency for Persons with Disabilities	259
<b>Chapter 409, Social and Economic Assistance</b>		<b>261</b>
409.1754	Sexually exploited children; screening and assessment; training; case management; task forces	261
409.9071	Medicaid provider agreements for school districts certifying state match	262
409.908	Reimbursement of Medicaid providers	263
<b>Chapter 411, Handicap or High-Risk Condition Prevention and Early Childhood Assistance</b>		<b>269</b>
Part I, General Provisions		269
411.201	Florida Prevention, Early Assistance, and Early Childhood Act; short title	269
411.202	Definitions	269
411.203	Continuum of comprehensive services	270

<b>Part II, Prevention and Early Assistance</b>	<b>273</b>
411.22 Legislative intent	273
411.223 Uniform standards	273
411.224 Family support planning process	273
<b>Part IV, Childhood Pregnancy Prevention Public Education Program</b>	<b>275</b>
411.24 Short title	275
411.241 Legislative intent	275
<b>Chapters 468 and 486, Miscellaneous Professions and Occupations and Physical Therapy Practice</b>	<b>277</b>
468.1105 Legislative intent (Speech-Language)	277
468.201 Short title; purpose (Occupational Therapy)	277
486.015 Legislative intent (Physical Therapy)	277
<b>Chapter 743, Disability of Nonage Minors Removed</b>	<b>279</b>
743.047 Removal of disabilities of minors; executing agreements for motor vehicle insurance	279
743.067 Unaccompanied youths	279
<b>Chapter 775, Definitions; General Penalties; Registration of Criminals</b>	<b>281</b>
775.0862 Sexual offenses against students by authority figures; reclassification	281
<b>Chapter 984, Children and Families in Need of Services</b>	<b>283</b>
984.071 Information packet	283
984.12 Case staffing; services and treatment to a family in need of services	283
984.151 Truancy petition; prosecution; disposition	284
<b>Chapter 985, Juvenile Justice; Interstate Compact on Juveniles</b>	<b>285</b>
985.622 Multiagency plan for career and professional education (CAPE)	285

## Section B: Florida State Board of Education Rules Pertaining to Exceptional Student Education

<b>Chapter 6A-1, Finance and Administration</b>	<b>289</b>
6A-1.014	Expenditure of Funds in Programs and Schools Where Generated 289
6A-1.0141	Categorical Program Funds 289
6A-1.0451	Florida Education Finance Program Student Membership Surveys 289
6A-1.04513	Maintaining Auditable FTE Records 290
6A-1.0452	Distribution of Florida Education Finance Program Funds 291
6A-1.0453	Educational Program Audits 291
6A-1.0502	Noncertificated Instructional Personnel 292
6A-1.0503	Definition of Qualified Instructional Personnel 292
6A-1.09401	Student Performance Standards 293
6A-1.09412	Course Requirements - Grades K-12 Basic and Adult Secondary Programs 294
6A-1.09414	Course Requirements - Grades PK-12 Exceptional Student Education 294
6A-1.09422	Florida Comprehensive Assessment Test and End-of-Course Assessment Requirements 295
6A-1.0943	Statewide Assessment for Students with Disabilities 297
6A-1.09430	Florida Alternate Assessment Requirements 299
6A-1.09441	Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation 300
6A-1.0955	Education Records 300
6A-1.0985	Entry Into Kindergarten and First Grade by Out-of-State Transfer Students 302
6A-1.099	Cooperative Projects and Activities 302
6A-1.09941	State Uniform Transfer of High School Credits 303
6A-1.09942	State Uniform Transfer of Students in the Middle Grades 303
6A-1.0995	Form of High School Diplomas and Certificates of Completion 304
6A-1.09961	Graduation Requirements for Certain Students with Disabilities 305
6A-1.099828	School Accountability for Exceptional Student Education (ESE) Center Schools 306

<b>Chapter 6A-3, Transportation</b>	<b>308</b>
6A-3.001	Basic Principles for Transportation of Students 308
6A-3.0121	Responsibility of School District and Parents or Guardians for Students Who are Transported at Public Expense 308
6A-3.0171	Responsibilities of School Districts for Student Transportation 309
<b>Chapter 6A-4, Certification</b>	<b>313</b>
6A-4.002	General Provisions 313
6A-4.0051	Renewal and Reinstatement of a Professional Certificate 315
6A-4.0141	Specialization Requirements for Certification in the Area of Preschool Education (Birth through Age Four)—Academic Class 317
6A-4.0142	Specialization Requirements for Certification in the Area of Prekindergarten/Primary Education (Age Three Through Grade Three)—Academic Class 317
6A-4.0172	Specialization Requirements for Certification in the Area of Hearing Impaired (Grades K-12)—Academic Class 318
6A-4.0176	Specialization Requirements for Certification in the Area of Speech-Language Impaired (Grades K-12)—Academic Class 319
6A-4.01761	Specialization Requirements for Certification in the Area of Speech-Language Impaired/Associate—Academic Class 319
6A-4.0178	Specialization Requirements for Certification in the Area of Visually Impaired (Grades K-12)—Academic Class 319
6A-4.01791	Specialization Requirements for the Gifted Endorsement—Academic Class Beginning July 1, 1992 320
6A-4.01792	Specialization Requirements for the Prekindergarten Disabilities Endorsement—Academic Class 320
6A-4.01793	Specialization Requirements for Endorsement in Severe or Profound Disabilities—Academic Class 320
6A-4.01794	Specialization Requirements for the Orientation and Mobility Endorsement—Academic Class 321
6A-4.01795	Specialization Requirements for Certification in Exceptional Student Education (Grades K-12)—Academic Class 321
6A-4.01796	Specialization Requirements for Endorsement in Autism—Academic Class 321
6A-4.0181	Specialization Requirements for Certification in Guidance and Counseling (Grades PK-12)—Specialty Class Beginning July 1, 1990 322
6A-4.0191	Specialization Requirements for Certification in Health (Grades K-12)—Academic Class 322

6A-4.02431	Specialization Requirements for the American Sign Language Endorsement—Academic Class	322
6A-4.0283	Specialization Requirements for Certification in Physical Education (Grades K-12)—Academic Class	322
6A-4.0292	Specialization Requirements for the Reading Endorsement—Academic Class	322
6A-4.0311	Specialization Requirements for Certification in School Psychologist (Grades PK-12)—Specialty Class Beginning July 1, 1992	323
6A-4.035	Specialization Requirements for Certification in School Social Worker (Grades PK-12)—Specialty Class	324
<b>Chapter 6A-6, Special Programs for Exceptional Students</b>		<b>325</b>
6A-6.021	State of Florida High School Diplomas	325
6A-6.0212	Performance-Based Exit Option Model and State of Florida High School Performance-Based Diploma	325
6A-6.024	School Entry Health Examination	327
6A-6.0251	Use of Epinephrine Auto-Injectors	327
6A-6.0252	Use of Prescribed Pancreatic Enzyme Supplements	327
6A-6.0253	Diabetes Management	328
6A-6.03011	Exceptional Student Education Eligibility for Students with Intellectual Disabilities	328
6A-6.03012	Exceptional Student Education Eligibility for Students with Speech Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Speech Services	329
6A-6.030121	Exceptional Student Education Eligibility for Students with Language Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Language Services	331
6A-6.03013	Exceptional Student Education Eligibility for Students Who are Deaf or Hard-of-Hearing	334
6A-6.03014	Exceptional Student Education Eligibility for Students Who Are Visually Impaired	335
6A-6.030151	Exceptional Student Education Eligibility for Students with Orthopedic Impairment	335
6A-6.030152	Exceptional Student Education Eligibility for Students with Other Health Impairment	336
6A-6.030153	Exceptional Student Education Eligibility for Students With Traumatic Brain Injury	336
6A-6.03016	Exceptional Student Education Eligibility for Students with Emotional/Behavioral Disabilities	337



6A-6.03018	Exceptional Education Eligibility for Students with Specific Learning Disabilities	338
6A-6.03019	Special Instructional Programs for Students Who Are Gifted	340
6A-6.030191	Development of Educational Plans for Exceptional Students who are Gifted	340
6A-6.03020	Specially Designed Instruction for Students Who Are Homebound or Hospitalized	341
6A-6.03022	Special Programs for Students Who Are Dual-Sensory Impaired	342
6A-6.03023	Exceptional Student Education Eligibility for Students with Autism Spectrum Disorder	343
6A-6.03024	Special Programs for Exceptional Students Who Require Physical Therapy	343
6A-6.03026	Eligibility Criteria for Prekindergarten Children with Disabilities	344
6A-6.03027	Special Programs for Children Three Through Five Years Old Who are Developmentally Delayed	345
6A-6.03028	Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities	345
6A-6.030281	Provision of Equitable Services to Parentally-Placed Private School Students with Disabilities	352
6A-6.03029	Development of Family Support Plans for Children with Disabilities Ages Birth Through Five Years	355
6A-6.03030	Exceptional Student Education Eligibility for Infants or Toddlers Birth Through Two Years Old who have Established Conditions	357
6A-6.03031	Exceptional Student Education Eligibility for Infants and Toddlers Birth Through Two Years Old who are Developmentally Delayed	357
6A-6.03032	Procedural Safeguards for Children with Disabilities Ages Birth through Two Years	357
6A-6.0311	Eligible Special Programs for Exceptional Students	358
6A-6.0312	Course Modifications for Exceptional Students	359
6A-6.0331	General Education Intervention Procedures, Evaluation, Determination of Eligibility, Reevaluation and the Provision of Exceptional Student Education Services	359
6A-6.03311	Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities	365
6A-6.03312	Discipline Procedures for Students with Disabilities	373
6A-6.03313	Procedural Safeguards for Exceptional Students who are Gifted	376
6A-6.0333	Surrogate Parents	379



6A-6.0334	Individual Educational Plans (IEPs) and Educational Plans (EPs) for Transferring Exceptional Students	380
6A-6.03411	Definitions, ESE Policies and Procedures, and ESE Administrators	380
6A-6.0361	Contractual Arrangements With Nonpublic Schools	386
6A-6.052	Dropout Prevention Programs	387
6A-6.0521	Definitions and Requirements Which Apply to All Dropout Prevention Programs	388
6A-6.05221	Student Support and Assistance Component	389
6A-6.0523	Comprehensive Dropout Prevention Plans	389
6A-6.0524	Educational Alternatives Programs	390
6A-6.0525	Teenage Parent Programs	390
6A-6.0526	Substance Abuse Programs	392
6A-6.0527	Disciplinary Programs	392
6A-6.0528	Youth Services Programs	393
6A-6.05281	Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment or Day Treatment	394
6A-6.05291	Course Modification	397
6A-6.05292	Common Objective Criteria and Evaluation of Dropout Prevention Programs	397
6A-6.054	K-12 Student Reading Intervention Requirements	
6A-6.065	Instructional Components of Vocational Education	397
6A-6.0713	Habitual Truancy: Inter-Agency Agreements	401
6A-6.0970	John M. McKay Scholarship for Students with Disabilities Program	401
<b>Chapter 6A-7, Special Programs II</b>		<b>405</b>
6A-7.0335	Regional Centers for Implementing Services to Individuals with Autism, Pervasive Developmental Disorders, Autistic-like Disabilities, Dual Sensory Impairments, or Sensory Impairment with Other Disabling Conditions	405
6A-7.099	Challenge Grant Program for the Gifted	406
<b>Chapter 6A-20, Student Financial Assistance</b>		<b>407</b>
6A-20.012	Critical Teacher Shortage Tuition Reimbursement Program	407
6A-20.013	Critical Teacher Shortage Student Loan Forgiveness Program	407
6A-20.025	Grants for Teachers for Special Training in Exceptional Student Education	408
6A-20.040	Occupational Therapist or Physical Therapist Tuition Reimbursement Program	409

6A-20.041	Occupational Therapist or Physical Therapist Student Loan Forgiveness Program	409
6A-20.042	Occupational Therapist or Physical Therapist Scholarship Loan Program	410
6A-20.111	Criteria for Documentation of Disability	412
<b>Chapter 6D-3, Enrollment Requirements: Identification and Assignments of Students (Florida School for the Deaf and the Blind)</b>		<b>414</b>
6D-3.002	Admission and Enrollment Requirements	414
<b>Chapter 64D-3, Control of Communicable Diseases and Conditions which May Significantly Affect Public Health</b>		<b>419</b>
64D-3.046	Immunization Requirements: Public and Nonpublic Schools, Grades Preschool, Kindergarten Through 12, and Adult Education Classes	419
<b>Chapter 64F-6, School Health Services Program</b>		<b>421</b>
64F-6.001	Definitions	421
64F-6.002	School Health Services Plan	421
64F-6.003	Screening	421
64F-6.004	Meeting Emergency Health Needs	422

**Section A:**

**Florida Statutes  
Pertaining  
to  
Exceptional Student Education**



# Florida Statutes Pertaining to Special Programs

## Chapter 1000

### K-20 General Provisions

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#### **1000.03 Function, mission, and goals of the Florida K-20 education system.-**

(1) Florida's K-20 education system shall be a decentralized system without excess layers of bureaucracy. Florida's K-20 education system shall maintain a systemwide technology plan based on a common set of data definitions.

(2)(a) The Legislature shall establish education policy, enact education laws, and appropriate and allocate education resources.

(b) With the exception of matters relating to the State University System, the State Board of Education shall oversee the enforcement of all laws and rules, and the timely provision of direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results.

(c) The Board of Governors shall oversee the enforcement of all state university laws and rules and regulations and the timely provision of direction, resources, assistance, intervention when needed, and strong incentives and disincentives to force accountability for results.

(3) Public education is a cooperative function of the state and local educational authorities. The state retains responsibility for establishing a system of public education through laws, standards, and rules to assure efficient operation of a K-20 system of public education and adequate educational opportunities for all individuals. Local educational authorities have a duty to fully and faithfully comply with state laws, standards, and rules and to efficiently use the resources available to them to assist the state in allowing adequate educational opportunities.

(4) The mission of Florida's K-20 education system is to allow its students to increase their proficiency by allowing them the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities, in accordance with the mission statement and accountability requirements of s. 1008.31.

(5) The priorities of Florida's K-20 education system include:

(a) Learning and completion at all levels, including increased high school graduation rate and readiness for postsecondary education without remediation.—All students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.

(b) Student performance.—Students demonstrate that they meet the expected academic standards consistently at all levels of their education.

(c) Alignment of standards and resources.—Academic standards for every level of the K-20 education system are aligned, and education financial resources are aligned with student performance expectations at each level of the K-20 education system.

(d) Educational leadership.—The quality of educational leadership at all levels of K-20 education is improved.

(e) Workforce education.—Workforce education is appropriately aligned with the skills required by the new global economy.

(f) Parental, student, family, educational institution, and community involvement.—Parents, students, families, educational institutions, and communities are collaborative partners in education, and each plays an important role in the success of individual students. Therefore, the State of Florida cannot be the guarantor of each individual student's success. The goals of Florida's K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.

(g) Comprehensive K-20 career and education planning.—It is essential that Florida's K-20 education system better prepare all students at every level for the transition from school to postsecondary education or work by providing information regarding:

1. Career opportunities, educational requirements associated with each career, educational institutions that prepare students to enter each career, and student financial aid available to pursue postsecondary instruction required to enter each career.

2. How to make informed decisions about the program of study that best addresses the students' interests and abilities while preparing them to enter postsecondary education or the workforce.

3. Recommended coursework and programs that prepare students for success in their areas of interest and ability.

This information shall be provided to students and parents through websites, handbooks, manuals, or other regularly provided communications.

History.—s. 5, ch. 2002-387; s. 4, ch. 2006-74; s. 65, ch. 2007-217; s. 1, ch. 2013-27.

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**1000.05 Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required.—**

(1) This section may be cited as the “Florida Educational Equity Act.”

(2)(a) Discrimination on the basis of race, ethnicity, national origin, gender, disability, or marital status against a student or an employee in the state system of public K-20 education is prohibited. No person in this state shall, on the basis of race, ethnicity, national origin, gender, disability, or marital status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any public K-20 education program or activity, or in any employment conditions or practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.

(b) The criteria for admission to a program or course shall not have the effect of restricting access by persons of a particular race, ethnicity, national origin, gender, disability, or marital status.

(c) All public K-20 education classes shall be available to all students without regard to race, ethnicity, national origin, gender, disability, or marital status; however, this is not intended to eliminate the provision of programs designed to meet the needs of students with limited proficiency in English, gifted students, or students with disabilities or programs tailored to students with specialized talents or skills.

(d) Students may be separated by gender for a single-gender program as provided under s. 1002.311, for any portion of a class that deals with human reproduction, or during participation in bodily contact sports. For the purpose of this section, bodily contact sports include wrestling, boxing, rugby, ice hockey, football, basketball, and other sports in which the purpose or major activity involves bodily contact.

(e) Guidance services, counseling services, and financial assistance services in the state public K-20 education system shall be available to students equally. Guidance and counseling services, materials, and promotional events shall stress access to academic and career opportunities for students without regard to race, ethnicity, national origin, gender, disability, or marital status.

(3)(a) No person shall, on the basis of gender, be excluded from participating in, be denied the benefits of, or be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a public K-20 educational institution; and no public K-20 educational institution shall provide athletics separately on such basis.

(b) Notwithstanding the requirements of paragraph (a), a public K-20 educational institution may operate or sponsor separate teams for members of each gender if the selection for such teams is based

upon competitive skill or the activity involved is a bodily contact sport. However, when a public K-20 educational institution operates or sponsors a team in a particular sport for members of one gender but does not operate or sponsor such a team for members of the other gender, and athletic opportunities for that gender have previously been limited, members of the excluded gender must be allowed to try out for the team offered.

(c) This subsection does not prohibit the grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to gender. However, when use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one gender, the educational institution shall use appropriate standards which do not have such effect.

(d) A public K-20 educational institution which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both genders.

1. The Board of Governors shall determine whether equal opportunities are available at state universities.

2. The Commissioner of Education shall determine whether equal opportunities are available in school districts and Florida College System institutions. In determining whether equal opportunities are available in school districts and Florida College System institutions, the Commissioner of Education shall consider, among other factors:

a. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both genders.

b. The provision of equipment and supplies.

c. Scheduling of games and practice times.

d. Travel and per diem allowances.

e. Opportunities to receive coaching and academic tutoring.

f. Assignment and compensation of coaches and tutors.

g. Provision of locker room, practice, and competitive facilities.

h. Provision of medical and training facilities and services.

i. Provision of housing and dining facilities and services.

j. Publicity.

Unequal aggregate expenditures for members of each gender or unequal expenditures for male and female teams if a public school or Florida College System institution operates or sponsors separate teams do not constitute nonimplementation of this subsection, but the Commissioner of Education shall consider the failure to provide necessary funds for teams for one gender in assessing equality of opportunity for members of each gender.

(e) A public school or Florida College System institution may provide separate toilet, locker room, and shower facilities on the basis of gender, but such facilities shall be comparable to such facilities provided for students of the other gender.

(4) Public schools and Florida College System institutions shall develop and implement methods and strategies to increase the participation of students of a particular race, ethnicity, national origin, gender, disability, or marital status in programs and courses in which students of that particular race, ethnicity, national origin, gender, disability, or marital status have been traditionally underrepresented, including, but not limited to, mathematics, science, computer technology, electronics, communications technology, engineering, and career education.

(5)(a) The State Board of Education shall adopt rules to implement this section as it relates to school districts and Florida College System institutions.

(b) The Board of Governors shall adopt regulations to implement this section as it relates to state universities.

(6) The functions of the Office of Equal Educational Opportunity of the Department of Education shall include, but are not limited to:

(a) Requiring all district school boards and Florida College System institution boards of trustees to develop and submit plans for the implementation of this section to the Department of Education.

(b) Conducting periodic reviews of school districts and Florida College System institutions to determine compliance with this section and, after a finding that a school district or a Florida College System institution is not in compliance with this section, notifying the entity of the steps that it must take to attain compliance and performing followup monitoring.

(c) Providing technical assistance, including assisting school districts or Florida College System institutions in identifying unlawful discrimination and instructing them in remedies for correction and prevention of such discrimination and performing followup monitoring.

(d) Conducting studies of the effectiveness of methods and strategies designed to increase the participation of students in programs and courses in which students of a particular race, ethnicity, national origin, gender, disability, or marital status have been traditionally underrepresented and monitoring the success of students in such programs or courses, including performing followup monitoring.

(e) Requiring all district school boards and Florida College System institution boards of trustees to submit data and information necessary to

determine compliance with this section. The Commissioner of Education shall prescribe the format and the date for submission of such data and any other educational equity data. If any board does not submit the required compliance data or other required educational equity data by the prescribed date, the commissioner shall notify the board of this fact and, if the board does not take appropriate action to immediately submit the required report, the State Board of Education shall impose monetary sanctions.

(f) Based upon rules of the State Board of Education, developing and implementing enforcement mechanisms with appropriate penalties to ensure that public K-12 schools and Florida College System institutions comply with Title IX of the Education Amendments of 1972 and subsection (3) of this section. However, the State Board of Education may not force a public school or Florida College System institution to conduct, nor penalize such entity for not conducting, a program of athletic activity or athletic scholarship for female athletes unless it is an athletic activity approved for women by a recognized association whose purpose is to promote athletics and a conference or league exists to promote interscholastic or intercollegiate competition for women in that athletic activity.

(g) Reporting to the Commissioner of Education any district school board or Florida College System institution board of trustees found to be out of compliance with rules of the State Board of Education adopted as required by paragraph (f) or paragraph (3)(d). To penalize the board, the State Board of Education shall:

1. Declare the school district or Florida College System institution ineligible for competitive state grants.

2. Notwithstanding the provisions of s. 216.192, direct the Chief Financial Officer to withhold general revenue funds sufficient to obtain compliance from the school district or Florida College System institution.

The school district or Florida College System institution shall remain ineligible and the funds shall not be paid until the institution comes into compliance or the State Board of Education approves a plan for compliance.

(7) A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action for such equitable relief as the court may determine. The court may also award reasonable attorney's fees and court costs to a prevailing party.

History.—s. 7, ch. 2002-387; s. 1942, ch. 2003-261; s. 70, ch. 2004-357; s. 66, ch. 2007-217; s. 1, ch. 2008-26; s. 9, ch. 2010-78; s. 4, ch. 2011-5.

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**1000.21 Systemwide definitions.—As used in the Florida K-20 Education Code:**

(1) “Articulation” is the systematic coordina-

tion that provides the means by which students proceed toward their educational objectives in as rapid and student-friendly manner as their circum-

stances permit, from grade level to grade level, from elementary to middle to high school, to and through postsecondary education, and when transferring from one educational institution or program to another.

(2) “Commissioner” is the Commissioner of Education.

(3) “Florida College System institution” except as otherwise specifically provided, includes all of the following public postsecondary educational institutions in the Florida College System and any branch campuses, centers, or other affiliates of the institution:

(a) Eastern Florida State College, which serves Brevard County.

(b) Broward College, which serves Broward County.

(c) College of Central Florida, which serves Citrus, Levy, and Marion Counties.

(d) Chipola College, which serves Calhoun, Holmes, Jackson, Liberty, and Washington Counties.

(e) Daytona State College, which serves Flagler and Volusia Counties.

(f) Florida SouthWestern State College, which serves Charlotte, Collier, Glades, Hendry, and Lee Counties.

(g) Florida State College at Jacksonville, which serves Duval and Nassau Counties.

(h) Florida Keys Community College, which serves Monroe County.

(i) Gulf Coast State College, which serves Bay, Franklin, and Gulf Counties.

(j) Hillsborough Community College, which serves Hillsborough County.

(k) Indian River State College, which serves Indian River, Martin, Okeechobee, and St. Lucie Counties.

(l) Florida Gateway College, which serves Baker, Columbia, Dixie, Gilchrist, and Union Counties.

(m) Lake-Sumter State College, which serves Lake and Sumter Counties.

(n) State College of Florida, Manatee-Sarasota, which serves Manatee and Sarasota Counties.

(o) Miami Dade College, which serves Miami-Dade County.

(p) North Florida Community College, which serves Hamilton, Jefferson, Lafayette, Madison, Suwannee, and Taylor Counties.

(q) Northwest Florida State College, which serves Okaloosa and Walton Counties.

(r) Palm Beach State College, which serves Palm Beach County.

(s) Pasco-Hernando State College, which

serves Hernando and Pasco Counties.

(t) Pensacola State College, which serves Escambia and Santa Rosa Counties.

(u) Polk State College, which serves Polk County.

(v) St. Johns River State College, which serves Clay, Putnam, and St. Johns Counties.

(w) St. Petersburg College, which serves Pinellas County.

(x) Santa Fe College, which serves Alachua and Bradford Counties.

(y) Seminole State College of Florida, which serves Seminole County.

(z) South Florida State College, which serves DeSoto, Hardee, and Highlands Counties.

(aa) Tallahassee Community College, which serves Gadsden, Leon, and Wakulla Counties.

(bb) Valencia College, which serves Orange and Osceola Counties.

(4) “Department” is the Department of Education.

(5) “Parent” is either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.

(6) “State university,” except as otherwise specifically provided, includes the following institutions and any branch campuses, centers, or other affiliates of the institution:

(a) The University of Florida.

(b) The Florida State University.

(c) The Florida Agricultural and Mechanical University.

(d) The University of South Florida.

(e) The Florida Atlantic University.

(f) The University of West Florida.

(g) The University of Central Florida.

(h) The University of North Florida.

(i) The Florida International University.

(j) The Florida Gulf Coast University.

(k) New College of Florida.

(l) The Florida Polytechnic University.

(7) “Next Generation Sunshine State Standards” means the state’s public K-12 curricular standards adopted under s. 1003.41.

(8) “Board of Governors” is the Board of Governors of the State University System.

History.—s. 10, ch. 2002-387; s. 3, ch. 2004-271; s. 67, ch. 2007-217; s. 1, ch. 2008-52; s. 5, ch. 2008-163; s. 3, ch. 2008-235; s. 2, ch. 2009-228; s. 2, ch. 2010-23; s. 7, ch. 2011-5; s. 1, ch. 2011-102; s. 9, ch. 2012-129; s. 3, ch. 2012-134; s. 2, ch. 2013-24; s. 2, ch. 2013-27; s. 2, ch. 2013-45; s. 1, ch. 2014-8; s. 9, ch. 2014-39.

**1000.36 Interstate Compact on Educational Opportunity for Military Children.**—The Governor is authorized and directed to execute the Interstate Compact on Educational Opportunity for Military Children on behalf of this state with any other

state or states legally joining therein in the form substantially as follows:

Interstate Compact on Educational Opportunity for Military Children



## ARTICLE I

**PURPOSE.**—It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the adoption and enforcement of administrative rules implementing this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

## ARTICLE II

**DEFINITIONS.**—As used in this compact, unless the context clearly requires a different construction, the term:

A. “Active duty” means the full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. ss. 1209 and 1211.

B. “Children of military families” means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active-duty member.

C. “Compact commissioner” means the voting representative of each compacting state appointed under Article VIII of this compact.

D. “Deployment” means the period 1 month before the service members’ departure from their home station on military orders through 6 months after return to their home station.

E. “Educational records” or “education re-

records” means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. “Extracurricular activities” means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. “Interstate Commission on Educational Opportunity for Military Children” means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

H. “Local education agency” means a public authority legally constituted by the state as an administrative agency to provide control of, and direction for, kindergarten through 12th grade public educational institutions.

I. “Member state” means a state that has enacted this compact.

J. “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. “Nonmember state” means a state that has not enacted this compact.

L. “Receiving state” means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. “Rule” means a written statement by the Interstate Commission adopted under Article XII of this compact which is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. “Sending state” means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States Territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

Q. "Transition" means:

1. The formal and physical process of transferring from school to school; or

2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

### ARTICLE III

#### APPLICABILITY.—

A. Except as otherwise provided in Section C, this compact applies to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active-duty orders pursuant to 10 U.S.C. ss. 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

B. This interstate compact applies to local education agencies.

C. This compact does not apply to the children of:

1. Inactive members of the National Guard and military reserves;

2. Members of the uniformed services now retired, except as provided in Section A;

3. Veterans of the uniformed services, except as provided in Section A; and

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active-duty members of the uniformed services.

### ARTICLE IV

#### EDUCATIONAL RECORDS AND ENROLLMENT.—

A. If a child's official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, that school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of the request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules adopted by the Interstate Commission.

C. Compact states must give 30 days from the date of enrollment or within such time as is reasonably determined under the rules adopted by the Interstate Commission for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

### ARTICLE V

#### PLACEMENT AND ATTENDANCE.—

A. If a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous

school and promoting placement in academically and career challenging courses should be paramount when considering placement. A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. The receiving state school must initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and
2. English as a second language (ESL).

A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

C. A receiving state must initially provide comparable services to a student with disabilities based on his or her current individualized education program (IEP) in compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. s. 1400, et seq. A receiving state must make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing section 504 or title II plan, to provide the student with equal access to education, in compliance with the provisions of Section 504 of the Rehabilitation Act, 29 U.S.C.A. s. 794, and with title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131-12165. A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

D. Local education agency administrative officials may waive course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. A student whose parent or legal guardian is an active-duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from deployment to, a combat zone or combat support posting shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## ARTICLE VI

### ELIGIBILITY.—

A. When considering the eligibility of a child for enrolling in a school:

1. A special power of attorney relative to

the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrolling the child in school and for all other actions requiring parental participation and consent.

2. A local education agency is prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school's jurisdiction different from that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school's jurisdiction different from that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. State and local education agencies must facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

## ARTICLE VII

GRADUATION.—In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency must provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. States shall accept exit or end-of-course exams required for graduation from the sending state; national norm-referenced achievement tests; or alternative testing, in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C shall apply.

C. If a military student transfers at the beginning of or during his or her senior year and is not eligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies must ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. If one of the states in question is not a member of this compact, the member state shall use its best efforts to facilitate

the on-time graduation of the student in accordance with Sections A and B of this Article.

#### ARTICLE VIII

STATE COORDINATION.—Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities.

A. Each member state may determine the membership of its own state council, but the membership must include at least: the state superintendent of education, the superintendent of a school district that has a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison shall be ex officio members of the state council, unless either is already a full voting member of the state council.

#### ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.—The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who

shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. The ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a 1-year term. Members of the executive committee are entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. The methods of data collection, exchange, and reporting shall, insofar as is reasonably possible, conform to current technology and

coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

G. The Interstate Commission shall create a procedure that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section does not create a private right of action against the Interstate Commission or any member state.

## ARTICLE X

**POWERS AND DUTIES OF THE INTERSTATE COMMISSION.**—The Interstate Commission has the power to:

A. Provide for dispute resolution among member states.

B. Adopt rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules have the force and effect of statutory law and are binding in the compact states to the extent and in the manner provided in this compact.

C. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. Enforce compliance with the compact provisions, the rules adopted by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

E. Establish and maintain offices that shall be located within one or more of the member states.

F. Purchase and maintain insurance and bonds.

G. Borrow, accept, hire, or contract for services of personnel.

H. Establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. Elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. Accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve,

or use any property, real, personal, or mixed.

L. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. Establish a budget and make expenditures.

N. Adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. Establish uniform standards for the reporting, collecting, and exchanging of data.

R. Maintain corporate books and records in accordance with the bylaws.

S. Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

## ARTICLE XI

**ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.**—

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.



7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. The executive committee has the authority and duties as may be set forth in the bylaws, including, but not limited to:

1. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

2. Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the adoption of rules, operating procedures, and administrative and technical support functions; and

3. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

D. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission but is not a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

E. The Interstate Commission’s executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that the person is not protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

1. The liability of the Interstate Commission’s executive director and employees or Inter-

state Commission representatives, acting within the scope of the person’s employment or duties, for acts, errors, or omissions occurring within the person’s state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect the person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend an Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

3. To the extent not covered by the state involved, a member state, the Interstate Commission, and the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney’s fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

## ARTICLE XII

**RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.**—The Interstate Commission shall adopt rules to effectively and efficiently implement this act to achieve the purposes of this compact.

A. If the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, the action undertaken by the Interstate Commission is invalid and has no force or effect.

B. Rules must be adopted pursuant to a rulemaking process that substantially conforms to

the “Model State Administrative Procedure Act,” of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. No later than 30 days after a rule is adopted, a person may file a petition for judicial review of the rule. The filing of the petition does not stay or otherwise prevent the rule from becoming effective unless a court finds that the petitioner has a substantial likelihood of success on the merits of the petition. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission’s authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule is invalid and has no further force and effect in any compacting state.

### ARTICLE XIII

#### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.—

A. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The provisions of this compact and the rules adopted under it have the force and effect of statutory law.

B. All courts shall take judicial notice of the compact and its adopted rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

C. The Interstate Commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact, or its adopted rules.

D. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or the adopted rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission must specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the

default, terminate the defaulting state from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

E. Suspension or termination of membership in the compact may not be imposed on a member until all other means of securing compliance have been exhausted. Notice of the intent to suspend or terminate membership must be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state’s legislature, and each of the member states.

F. A state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations, the performance of which extends beyond the effective date of suspension or termination.

G. The remaining member states of the Interstate Commission do not bear any costs arising from a state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

H. A defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney’s fees.

I. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices to enforce compliance with the provisions of the compact, or its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney’s fees.

3. The remedies herein are not the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

#### ARTICLE XIV

##### FINANCING OF THE INTERSTATE COMMISSION.—

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

<sup>2</sup>B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall adopt a rule binding upon all member states.

C. The Interstate Commission may not incur any obligation of any kind before securing the funds adequate to meet the obligation and the Interstate Commission may not pledge the credit of any of the member states, except by and with the permission of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT.—

A. Any state is eligible to become a member state.

B. The compact shall take effect and be binding upon legislative enactment of the compact into law by not less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the

member states. An amendment does not become effective and binding upon the Interstate Commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

#### ARTICLE XVI

##### WITHDRAWAL AND DISSOLUTION.—

A. Once in effect, the compact continues in force and remains binding upon each and every member state, provided that a member state may withdraw from the compact, specifically repealing the statute that enacted the compact into law.

1. Withdrawal from the compact occurs when a statute repealing its membership is enacted by the state, but does not take effect until 1 year after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.

2. The withdrawing state must immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days after its receipt thereof.

3. A withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

4. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

C. Upon the dissolution of this compact, the compact becomes void and has no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE XVII

##### SEVERABILITY AND CONSTRUCTION.—

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. This compact does not prohibit the applicability of other interstate compacts to which the states are members.



## ARTICLE XVIII

### BINDING EFFECT OF COMPACT AND OTHER LAWS.—

A. This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

B. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

C. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

D. All agreements between the Interstate Commission and the member states are binding in

accordance with their terms.

E. If any part of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

History.—ss. 1, 5, ch. 2008-225; s. 94, ch. 2009-21; ss. 1, 2, 3, ch. 2010-52; ss. 1, 2, ch. 2013-20.

<sup>1</sup>Note.—Section 2, ch. 2013-20, provides that “[s]ections 1000.36, 1000.37, 1000.38, and 1000.39, Florida Statutes, shall stand repealed 3 years after the effective date of this act unless reviewed and saved from repeal through reenactment by the Legislature.” Section 4, ch. 2013-20, provides that “[t]his act shall take effect upon becoming a law”; the act became law on April 10, 2013. Section 1000.37 was repealed by s. 11, ch. 2014-39.

<sup>2</sup>Note.—Section 3, ch. 2013-20, provides that “[t]he annual dues assessment for the Interstate Compact on Educational Opportunity for Military Children shall be paid within existing resources by the Department of Education.”



# Florida Statutes Pertaining to Special Programs

## Chapter 1001

### K-20 Governance

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#### 1001.02 General powers of State Board of Education.—

(1) The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System, and it shall focus on high-level policy decisions. It has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it for the improvement of the state system of K-20 public education except for the State University System. Except as otherwise provided herein, it may, as it finds appropriate, delegate its general powers to the Commissioner of Education or the directors of the divisions of the department.

(2) The State Board of Education has the following duties:

(a) To adopt comprehensive educational objectives for public education except for the State University System.

(b) To adopt comprehensive long-range plans and short-range programs for the development of the state system of public education except for the State University System.

(c) To exercise general supervision over the divisions of the Department of Education as necessary to ensure coordination of educational plans and programs and resolve controversies and to minimize problems of articulation and student transfers, to ensure that students moving from one level of education to the next have acquired competencies necessary for satisfactory performance at that level, and to ensure maximum utilization of facilities.

(d) To adopt, in consultation with the Board of Governors, and from time to time modify, minimum and uniform standards of college-level communication and computation skills generally associated with successful performance and progression through the baccalaureate level and to identify college-preparatory high school coursework and postsecondary-level coursework that prepares students with the academic skills necessary to succeed in postsecondary education.

(e) To adopt and submit to the Governor and Legislature, as provided in s. 216.023, a coordinated K-20 education budget that estimates the expenditure requirements for the Board of Governors, as provided in s. 1001.706, the State Board of Education, including the Department of Education and the Commissioner of Education, and all of the boards, institutions, agencies, and services under the general supervision of the Board of Governors,

as provided in s. 1001.706, or the State Board of Education for the ensuing fiscal year. The State Board of Education may not amend the budget request submitted by the Board of Governors. Any program recommended by the Board of Governors or the State Board of Education which will require increases in state funding for more than 1 year must be presented in a multiyear budget plan.

(f) To hold meetings, transact business, keep records, adopt a seal, and, except as otherwise provided by law, perform such other duties as may be necessary for the enforcement of laws and rules relating to the state system of public education.

(g) To approve plans for cooperating with the Federal Government.

(h) To approve plans for cooperating with other public agencies in the development of rules and in the enforcement of laws for which the state board and such agencies are jointly responsible.

(i) To review plans for cooperating with appropriate nonpublic agencies for the improvement of conditions relating to the welfare of schools.

(j) To create such subordinate advisory bodies as are required by law or as it finds necessary for the improvement of education.

(k) To constitute any education bodies or other structures as required by federal law.

(l) To assist in the economic development of the state by developing a state-level planning process to identify future training needs for industry, especially high-technology industry.

(m) To assist in the planning and economic development of the state by establishing a clearinghouse for information on educational programs of value to economic development.

(n) To adopt cohesive rules pursuant to ss. 120.536(1) and 120.54, within statutory authority.

(o) To authorize the allocation of resources in accordance with law and rule.

(p) To contract with independent institutions accredited by an agency whose standards are comparable to the minimum standards required to operate a postsecondary educational institution at that level in the state. The purpose of the contract is to provide those educational programs and facilities which will meet needs unfulfilled by the state system of public postsecondary education.

(q) To recommend that a district school board take action consistent with the state board's decision relating to an appeal of a charter school application.

(r) To enforce systemwide education goals and policies except as otherwise provided by law.

(s) To establish a detailed procedure for the implementation and operation of a systemwide K-20 technology plan that is based on a common set of data definitions.

(t) To establish accountability standards for existing legislative performance goals, standards, and measures, and order the development of mechanisms to implement new legislative goals, standards, and measures.

(u) To adopt criteria and implementation plans for future growth issues, such as new Florida College System institutions and Florida College System institution campus mergers, and to provide for cooperative agreements between and within public and private education sectors.

(v) To develop, in conjunction with the Board of Governors, and periodically review for adjustment, a coordinated 5-year plan for postsecondary enrollment, identifying enrollment and graduation expectations by baccalaureate degree program, and annually submit the plan to the Legislature as part of its legislative budget request.

(w) Beginning in the 2014-2015 academic year and annually thereafter, to require each Florida College System institution prior to registration to provide each enrolled student electronic access to the economic security report of employment and earning outcomes prepared by the Department of Economic Opportunity pursuant to s. 445.07.

(3)(a) The State Board of Education shall adopt a strategic plan that specifies goals and objectives for the state's public schools and Florida College System institutions. The plan shall be formulated in conjunction with plans of the Board of Governors in order to provide for the roles of the universities and Florida College System institutions to be coordinated to best meet state needs and reflect cost-effective use of state resources. The strategic plan must clarify the mission statements of each Florida College System institution and the system as a whole and identify degree programs, including baccalaureate degree programs, to be offered at each Florida College System institution in accordance with the objectives provided in this subsection and the coordinated 5-year plan pursuant to paragraph (2)(v). The strategic plan must cover a period of 5 years, with modification of the program lists after 2 years. Development of each 5-year plan must be coordinated with and initiated after completion of the master plan. The strategic plans must specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state and consider reports and recommendations of the Higher Education Coordinating Council pursuant to s. 1004.015 and the Articulation Coordinating Committee pursuant to s. 1007.01. The state board shall submit a report to the President of the Senate and the Speaker of the House of Representatives upon modification of the plan and as part of its

legislative budget request.

(b) The State Board of Education and the Board of Governors shall jointly develop long-range plans and annual reports for financial aid in this state. The long-range plans shall establish goals and objectives for a comprehensive program of financial aid for Florida students and shall be updated every 5 years. The annual report shall include programs administered by the department as well as awards made from financial aid fee revenues, any other funds appropriated by the Legislature for financial assistance, and the value of tuition and fees waived for students enrolled in a dual enrollment course at a public postsecondary educational institution. The annual report shall include an assessment of progress made in achieving goals and objectives established in the long-range plans and recommendations for repealing or modifying existing financial aid programs or establishing new programs. A long-range plan shall be submitted by January 1, 2004, and every 5 years thereafter. An annual report shall be submitted on January 1, 2004, and in each successive year that a long-range plan is not submitted, to the President of the Senate and the Speaker of the House of Representatives.

(4) The State Board of Education shall:

(a) Provide for each Florida College System institution to offer educational training and service programs designed to meet the needs of both students and the communities served.

(b) Specify, by rule, procedures to be used by the Florida College System institution boards of trustees in the annual evaluations of presidents and review the evaluations of presidents by the boards of trustees, including the extent to which presidents serve both institutional and system goals.

(c) Establish, in conjunction with the Board of Governors, an effective information system that will provide composite data concerning the Florida College System institutions and state universities and ensure that special analyses and studies concerning the institutions are conducted, as necessary, for provision of accurate and cost-effective information concerning the institutions.

(d) Establish criteria for making recommendations for modifying district boundary lines for Florida College System institutions, including criteria for service delivery areas of Florida College System institutions authorized to grant baccalaureate degrees.

(e) Establish criteria for making recommendations concerning all proposals for the establishment of additional centers or campuses for Florida College System institutions.

(f) Examine the annual administrative review of each Florida College System institution.

(g) Adopt and submit to the Legislature a 3-year list of priorities for fixed-capital-outlay projects. The State Board of Education may not amend the 3-year list of priorities of the Board of

Governors.

(5) The State Board of Education is responsible for reviewing and administering the state program of support for the Florida College System institutions and, subject to existing law, shall establish the tuition and out-of-state fees for developmental education and for credit instruction that may be counted toward an associate in arts degree, an associate in applied science degree, or an associate in science degree.

(6) The State Board of Education shall prescribe minimum standards, definitions, and guidelines for Florida College System institutions that will ensure the quality of education, coordination among the Florida College System institutions and state universities, and efficient progress toward accomplishing the Florida College System institution mission. At a minimum, these rules must address:

(a) Personnel.

(b) Contracting.

(c) Program offerings and classification, including college-level communication and computation skills associated with successful performance in college and with tests and other assessment procedures that measure student achievement of those skills. The performance measures must provide that students moving from one level of education to the next acquire the necessary competencies for that level.

(d) Provisions for curriculum development, graduation requirements, college calendars, and program service areas. These provisions must include rules that:

1. Provide for the award of an associate in arts degree to a student who successfully completes 60 semester credit hours at the Florida College System institution.

2. Require all of the credits accepted for the associate in arts degree to be in the statewide course numbering system as credits toward a baccalaureate degree offered by a state university or a Florida College System institution.

3. Require no more than 36 semester credit hours in general education courses in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.

The rules should encourage Florida College System institutions to enter into agreements with state universities that allow Florida College System institution students to complete upper-division-level courses at a Florida College System institution. An agreement may provide for concurrent enrollment at the Florida College System institution and the state university and may authorize the Florida College System institution to offer an upper-division-level course or distance learning.

(e) Student admissions, conduct and discipline, nonclassroom activities, and fees.

(f) Budgeting.

(g) Business and financial matters.

(h) Student services.

(i) Reports, surveys, and information systems, including forms and dates of submission.

History.—s. 20, ch. 2002-387; s. 68, ch. 2007-217; s. 8, ch. 2011-5; s. 1, ch. 2012-195; s. 5, ch. 2013-51.

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#### **1001.11 Commissioner of Education; other duties.—**

(1) The Commissioner of Education must independently perform the following duties:

(a) Cooperate with and coordinate responses to requests from the members of the Legislature.

(b) Serve as the primary source of information to the Legislature, including the President of the Senate and the Speaker of the House of Representatives, concerning the State Board of Education, the K-20 education system, and early learning programs.

(c) In cooperation with the Board of Governors, develop and implement a process for receiving and processing requests, in conjunction with the Legislature, for the allocation of PECO funds for qualified postsecondary education projects.

(d) Integrally work with the boards of trustees of the Florida College System institutions.

(e) Monitor the activities of the State Board of Education and provide information related to current and pending policies to the members of the boards of trustees of the Florida College System institutions and state universities.

(f) Ensure the timely provision of information requested by the Legislature from the State Board

of Education, the commissioner's office, and the Department of Education.

(2) The Commissioner of Education shall annually report the state's educational performance on state and national measures and shall recommend to the State Board of Education performance goals addressing the educational needs of the state.

(3) Notwithstanding any other provision of law to the contrary, the Commissioner of Education, in conjunction with the Legislature, and the Board of Governors regarding the State University System, must recommend funding priorities for the distribution of capital outlay funds for public postsecondary educational institutions, based on priorities that include, but are not limited to, the following criteria:

(a) Growth at the institutions.

(b) Need for specific skills statewide.

(c) Need for maintaining and repairing existing facilities.

(4) The commissioner shall develop and implement an integrated K-20 information system for educational management in accordance with the requirements of chapter 1008.

(5) The commissioner shall design and imple-

ment a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, in accordance with the requirements of chapter 1008.

(6) The commissioner is responsible for implementing and maintaining a system of intensive school improvement and stringent education accountability, in accordance with the requirements of chapter 1008.

(7) The commissioner shall make prominently available on the department's website the following: links to the Internet-based clearinghouse for professional development regarding physical education; the school wellness and physical education policies and other resources required under

s. 1003.453; and other Internet sites that provide professional development for elementary teachers of physical education as defined in s. 1003.01(16). These links must provide elementary teachers with information concerning current physical education and nutrition philosophy and best practices that result in student participation in physical activities that promote lifelong physical and mental well-being.

(8) The commissioner shall oversee the development and implementation of the 5-year strategic plan for establishing Florida digital classrooms to assist school districts in their efforts to integrate technology in classroom teaching and learning to improve student performance.

History.—s. 24, ch. 2002-387; s. 1, ch. 2007-28; s. 71, ch. 2007-217; s. 173, ch. 2008-4; s. 11, ch. 2011-5; s. 40, ch. 2013-35; s. 28, ch. 2013-252; s. 4, ch. 2014-56.

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**1001.213 Office of Early Learning.**—There is created within the Office of Independent Education and Parental Choice the Office of Early Learning, as required under s. 20.15, which shall be administered by an executive director. The office shall be fully accountable to the Commissioner of Education but shall:

(1) Independently exercise all powers, duties, and functions prescribed by law and shall not be construed as part of the K-20 education system.

(2) Adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. The office shall submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be filed immediately with the Department of State.

(3) In compliance with part VI of chapter 1002 and its powers and duties under s. 1002.82, administer the school readiness program at the state level for the state's eligible population described in s. 1002.87 and provide guidance to early learning coalitions in the implementation of the program.

(4) In compliance with parts V and VI of chapter 1002 and its powers and duties under s. 1002.75, administer the Voluntary Prekindergarten Education Program at the state level.

(5) Administer the operational requirements of the child care resource and referral network at the state level.

(6) Keep administrative staff to the minimum necessary to administer the duties of the office.

History.—s. 1, ch. 2013-252.

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**1001.42 Powers and duties of district school board.**—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(1) **REQUIRE MINUTES AND RECORDS TO BE KEPT.**—Require the district school superintendent, as secretary, to keep such minutes and records as are necessary to set forth clearly all actions and proceedings of the school board.

(a) **Minutes, recording.**—The minutes of each meeting shall be reviewed, corrected if necessary, and approved at the next regular meeting, provided that this action may be taken at an intervening special meeting if the district school board desires. The minutes shall be kept as a public record in a permanent location.

(b) **Minutes, contents.**—The minutes shall show the vote of each member present on all matters on which the district school board takes action. It shall be the duty of each member to see to it that both the matter and his or her vote thereon are properly recorded in the minutes. Unless oth-

erwise shown by the minutes, it shall be presumed that the vote of each member present supported any action taken by the district school board in either the exercise of, violation of, or neglect of the powers and duties imposed upon the district school board by law or rule, whether such action is recorded in the minutes or is otherwise established. It shall also be presumed that the policies, appointments, programs, and expenditures not recorded in the minutes but made and actually in effect in the district school system were made and put into effect at the direction of the district school board, unless it can be shown that they were done without the actual or constructive knowledge of the members of the district school board.

(2) **CONTROL PROPERTY.**—Subject to rules of the State Board of Education, control property and convey the title to real and personal property.

(3) **ADOPT SCHOOL PROGRAM.**—Adopt a school program for the entire school district.

(4) **ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.**—Adopt and provide for the



execution of plans for the establishment, organization, and operation of the schools of the district, including, but not limited to, the following:

(a) Schools and enrollment plans.—Establish schools and adopt enrollment plans that may include school attendance areas and open enrollment provisions.

(b) Elimination of school centers and consolidation of schools.—Provide for the elimination of school centers and the consolidation of schools.

(c) Adequate educational facilities for all children without tuition.—Provide adequate educational facilities for all children without payment of tuition.

(d) Cooperate with school boards of adjoining districts in maintaining schools.—Approve plans for cooperating with school boards of adjoining districts in this state or in adjoining states for establishing school attendance areas composed of territory lying within the districts and for the joint maintenance of district-line schools or other schools which are to serve those attendance areas. The conditions of such cooperation shall be as follows:

1. Establishment.—The establishment of a school to serve attendance areas lying in more than one district and the plans for maintaining the school and providing educational services to students shall be effected by annual resolutions spread upon the minutes of each district school board concerned, which resolutions shall set out the territorial limits of the areas from which children are to attend the school and the plan to be followed in maintaining and operating the school.

2. Control.—Control of the school or schools involved shall be vested in the district school board of the district in which the school or schools are located unless otherwise agreed by the district school boards.

3. Settlement of disagreements.—In the event an agreement cannot be reached relating to such attendance areas or to the school or schools therein, the matter may be referred jointly by the cooperating district school boards or by either district school board to the Department of Education for decision under rules of the State Board of Education, and its decision shall be binding on both school boards.

(e) Classification and standardization of schools.—Provide for the classification and standardization of schools.

(f) Opening and closing of schools; fixing uniform date.—Adopt policies for the opening and closing of schools and fix uniform dates; however, beginning with the 2007-2008 school year, the opening date for schools in the district may not be earlier than 14 days before Labor Day each year.

(g) Observance of school holidays and vacation periods.—Designate the observance of school holidays and vacation periods.

(h) Career classes and schools.—Provide for the establishment and maintenance of career schools, departments, or classes, giving instruction in career education as defined by rules of the State Board of Education, and use any moneys raised by public taxation in the same manner as moneys for other school purposes are used for the maintenance and support of public schools or classes.

(i) District school boards may establish public evening schools.—Have the authority to establish public evening schools.

(j) Cooperate with other agencies in joint projects.—Cooperate with other agencies in joint projects.

(k) Planning time for teachers.—May adopt rules for planning time for teachers in accordance with the provisions of chapter 1012.

(l) Exceptional students.—Provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the State Board of Education as acceptable in accordance with the provisions of s. 1003.57.

(m) Alternative education programs for students in residential care facilities.—Provide, in accordance with the provisions of s. 1003.58, educational programs according to rules of the State Board of Education to students who reside in residential care facilities operated by the Department of Children and Families.

(n) Educational services in detention facilities.—In accordance with the provisions of chapter 1006, offer services to students in detention facilities.

#### (5) PERSONNEL.—

(a) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees, subject to the requirements of chapter 1012. A district school board is encouraged to provide clerical personnel or volunteers who are not classroom teachers to assist teachers in noninstructional activities, including performing paperwork and recordkeeping duties. However, a teacher shall remain responsible for all instructional activities and for classroom management and grading student performance.

(b) Notwithstanding s. 1012.55 or any other provision of law or rule to the contrary and consistent with adopted district school board policy relating to alternative certification for school principals, have the authority to appoint persons to the position of school principal who do not hold educator certification.

(6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL PERSONNEL AND SCHOOL ADMINISTRATORS.—Adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. 1012.01, to complete training on

the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A district school board, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(7) **DISQUALIFICATION FROM EMPLOYMENT.**—Disqualify instructional personnel and school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. 1012.315. An elected or appointed school board official forfeits his or her salary for 1 year if:

(a) The school board official knowingly signs and transmits to any state official a report of alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student and the school board official knows the report to be false or incorrect; or

(b) The school board official knowingly fails to adopt policies that require instructional personnel and school administrators to report alleged misconduct by other instructional personnel and school administrators, or that require the investigation of all reports of alleged misconduct by instructional personnel and school administrators, if the misconduct affects the health, safety, or welfare of a student.

(8) **STUDENT WELFARE.**—

(a) In accordance with the provisions of chapters 1003 and 1006, provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.

(b) In accordance with the provisions of ss. 1003.31 and 1003.32, fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncon-

trollable, or disruptive students from the classroom and the school bus and the authority of the school board to place such students in an alternative educational setting, when appropriate and available.

(9) **COURSES OF STUDY AND OTHER INSTRUCTIONAL MATERIALS.**—Provide adequate instructional materials for all students in accordance with the requirements of chapter 1006.

(10) **TRANSPORTATION OF STUDENTS.**—After considering recommendations of the district school superintendent, make provision for the transportation of students to the public schools or school activities they are required or expected to attend; authorize transportation routes arranged efficiently and economically; provide the necessary transportation facilities, and, when authorized under rules of the State Board of Education and if more economical to do so, provide limited subsistence in lieu thereof; and adopt the necessary rules and regulations to ensure safety, economy, and efficiency in the operation of all buses, as prescribed in chapter 1006.

(11) **SCHOOL PLANT.**—Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013 and as follows:

(a) School building program.—Approve and adopt a districtwide school building program.

(b) Sites, buildings, and equipment.—

1. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

2. Approve the proposed purchase of any site, playground, or recreational area for which district funds are to be used.

3. Expand existing sites.

4. Rent buildings when necessary.

5. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2), with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Current or other funds authorized by law may be used to make payments under a lease-purchase agreement. Notwithstanding any other statutes, if the rental is to be paid from funds received from ad valorem taxation and the agreement is for a period greater than 12 months, an approving referendum must be held. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without such approval. As used in this section, "educational facilities" means the buildings and equipment that are built, installed, or established to serve educational purposes and that



may lawfully be used. The State Board of Education may adopt such rules as are necessary to implement these provisions.

6. Provide for the proper supervision of construction.

7. Make or contract for additions, alterations, and repairs on buildings and other school properties.

8. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

(c) Maintenance and upkeep of school plant.—Provide adequately for the proper maintenance and upkeep of school plants, so that students may attend school without sanitary or physical hazards, and provide for the necessary heat, lights, water, power, and other supplies and utilities necessary for the operation of the schools.

(d) Insurance of school property.—Carry insurance on every school building in all school plants including contents, boilers, and machinery, except buildings of three classrooms or less that are of frame construction and located in a tenth class public protection zone as defined by the Florida Inspection and Rating Bureau, and on all school buses and other property under the control of the district school board or title to which is vested in the district school board, except as exceptions may be authorized under rules of the State Board of Education.

(e) Condemnation of buildings.—Condemn and prohibit the use for public school purposes of any building that can be shown for sanitary or other reasons to be no longer suitable for such use and, when any building is condemned by any state or other government agency as authorized in chapter 1013, see that it is no longer used for school purposes.

(12) FINANCE.—Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(a) Provide for all schools to operate 180 days.—Provide for the operation of all public schools, both elementary and secondary, as free schools for a term of 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education; determine district school funds necessary in addition to state funds to operate all schools for such minimum term; and arrange for the levying of district school taxes necessary to provide the amount needed from district sources.

(b) Annual budget.—Cause to be prepared, adopt, and have submitted to the Department of Education as required by law and rules of the State Board of Education, the annual school budget, such budget to be so prepared and executed as to promote the improvement of the district school system.

(c) Tax levies.—Adopt and spread on its minutes a resolution fixing the district school tax levy, provided for under s. 9, Art. VII of the State Constitution, necessary to carry on the school program adopted for the district for the next ensuing fiscal year as required by law, and fixing the district bond interest and sinking fund tax levy necessary for districts against which bonds are outstanding; and adopt and spread on its minutes a resolution suggesting the tax levy provided for in s. 9, Art. VII of the State Constitution, found necessary to carry on the school program adopted for the district for the next ensuing fiscal year.

(d) School funds.—Require that an accurate account is kept of all funds that should be transmitted to the district school board for school purposes at various periods during the year from all sources and, if any funds are not transmitted promptly, take the necessary steps to have such funds made available.

(e) Borrow money.—Borrow money, as prescribed in ss. 1011.12-1011.16, when necessary in anticipation of funds reasonably to be expected during the year as shown by the budget.

(f) Financial records and accounts.—Provide for keeping of accurate records of all financial transactions.

(g) Approval and payment of accounts.—Implement a system of accounting and budgetary control to ensure that payments do not exceed amounts budgeted, as required by law; make available all records for proper audit by state officials or independent certified public accountants; and have prepared required periodic statements to be filed with the Department of Education as provided by rules of the State Board of Education.

(h) Bonds of employees.—Fix and prescribe the bonds, and pay the premium on all such bonds, of all school employees who are responsible for school funds in order to provide reasonable safeguards for all such funds or property.

(i) Contracts for materials, supplies, and services.—Contract for materials, supplies, and services needed for the district school system. No contract for supplying these needs shall be made with any member of the district school board, with the district school superintendent, or with any business organization in which any district school board member or the district school superintendent has any financial interest whatsoever.

(j) Purchasing regulations to be secured from Department of Management Services.—Secure purchasing regulations and amendments and changes thereto from the Department of Management Services and prior to any purchase have reported to it by its staff, and give consideration to the lowest price available to it under such regulations, provided a regulation applicable to the item or items being purchased has been adopted by the department. The department should meet with

educational administrators to expand the inventory of standard items for common usage in all schools and postsecondary educational institutions.

(k) **Protection against loss.**—Provide for adequate protection against any loss or damage to school property or loss resulting from any liability for which the district school board or its officers, agents, or employees may be responsible under law. In fulfilling this responsibility, the district school board may purchase insurance, to be self-insured, to enter into risk management programs managed by district school boards, school-related associations, or insurance companies, or to have any combination thereof in any area to the extent the district school board is either authorized or required by law to contract for insurance. Any risk management program entered into pursuant to this subsection shall provide for strict accountability of all funds to the member district school boards and an annual audit by an independent certified public accountant of all receipts and disbursements.

(l) **Internal auditor.**—May employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor shall report directly to the district school board or its designee.

(m) **Financial and performance audits.**—In addition to the audits required by ss. 11.45 and 218.39, may contract with an independent certified public accountant to conduct a financial or performance audit of its accounts and records retained by it and paid from its public funds.

(13) **RECORDS AND REPORTS.**—Provide for the keeping of all necessary records and the making of all needed or required reports, as follows:

(a) **Forms, blanks, and reports.**—Require all employees to keep accurately all records and to make promptly in the proper form all reports required by law or by rules of the State Board of Education.

(b) **Reports to the department.**—Require that the district school superintendent prepare all reports to the Department of Education that may be required by law or rules of the State Board of Education; see that all such reports are promptly transmitted to the department; withhold the further payment of salary to the superintendent or employee when notified by the department that he or she has failed to file any report within the time or in the manner prescribed; and continue to withhold the salary until the district school board is notified by the department that such report has been received and accepted, provided that when any report has not been received by the date due and after due notice has been given to the district school board of that fact, the department, if it deems necessary, may require the report to be prepared by a member of its staff, and the district school board shall pay all expenses connected therewith. Any member of the district school board

who is responsible for the violation of this provision is subject to suspension and removal.

(c) **Reports to parents.**—Require that, at regular intervals, reports are made by school principals or teachers to parents, apprising them of the progress being made by the students in their studies and giving other needful information.

(14) **COOPERATION WITH OTHER DISTRICT SCHOOL BOARDS.**—May establish and participate in educational consortia that are designed to provide joint programs and services to cooperating school districts, consistent with the provisions of s. 4(b), Art. IX of the State Constitution. The State Board of Education shall adopt rules providing for the establishment, funding, administration, and operation of such consortia.

(15) **ENFORCEMENT OF LAW AND RULES.**—Require that all laws and rules of the State Board of Education or of the district school board are properly enforced.

(16) **SCHOOL LUNCH PROGRAM.**—Assume such responsibilities and exercise such powers and perform such duties as may be assigned to it by law or as may be required by rules of the Department of Agriculture and Consumer Services or, as in the opinion of the district school board, are necessary to ensure school lunch services, consistent with needs of students; effective and efficient operation of the program; and the proper articulation of the school lunch program with other phases of education in the district.

(17) **PUBLIC INFORMATION AND PARENTAL INVOLVEMENT PROGRAM.**—

(a) Adopt procedures whereby the general public can be adequately informed of the educational programs, needs, and objectives of public education within the district, including educational opportunities available through the Florida Virtual School.

(b) Adopt rules to strengthen family involvement and empowerment pursuant to s. 1002.23. The rules shall be developed in collaboration with school administrators, parents, teachers, and community partners.

(c) Develop and disseminate a parent guide to successful student achievement which addresses what parents need to know about their child's educational progress and how they can help their child to succeed in school.

(d) Develop and disseminate a checklist for parents to assist parents in becoming involved in their child's educational progress.

(e) Encourage teachers and administrators to keep parents informed of student progress, student programs, student attendance requirements pursuant to ss. 1003.26, 1003.27, 414.1251, and 984.151, and availability of resources for academic assistance.

(18) **IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.**—Maintain a system of school

improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(a) School improvement plans.—

1. The district school board shall annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. If a school has a significant gap in achievement on statewide, standardized assessments administered pursuant to s. 1008.22 by one or more student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v) (II); has not significantly increased the percentage of students passing statewide, standardized assessments; has not significantly increased the percentage of students demonstrating Learning Gains, as defined in s. 1008.34 and as calculated under s. 1008.34(3)(b), who passed statewide, standardized assessments; or has significantly lower graduation rates for a subgroup when compared to the state's graduation rate, that school's improvement plan shall include strategies for improving these results. The state board shall adopt rules establishing thresholds and for determining compliance with this subparagraph.

2. A school that includes any of grades 6, 7, or 8 shall include annually in its school improvement plan information and data on the school's early warning system required under paragraph (b), including a list of the early warning indicators used in the system, the number of students identified by the system as exhibiting two or more early warning indicators, the number of students by grade level that exhibit each early warning indicator, and a description of all intervention strategies employed by the school to improve the academic performance of students identified by the early warning system. In addition, a school that includes any of grades 6, 7, or 8 shall describe in its school improvement plan the strategies used by the school to implement the instructional practices for middle grades emphasized by the district's professional development system pursuant to s. 1012.98(4)(b)9.

(b) Early warning system.—

1. A school that includes any of grades 6, 7, or 8 shall implement an early warning system to identify students in grades 6, 7, and 8 who need additional support to improve academic performance and stay engaged in school. The early warning system must include the following early warning indicators:

a. Attendance below 90 percent, regardless of whether absence is excused or a result of out-of-school suspension.

b. One or more suspensions, whether in school or out of school.

c. Course failure in English Language Arts or mathematics.

d. A Level 1 score on the statewide, standardized assessments in English Language Arts or mathematics.

A school district may identify additional early warning indicators for use in a school's early warning system.

2. When a student exhibits two or more early warning indicators, the school's child study team under s. 1003.02 or a school-based team formed for the purpose of implementing the requirements of this paragraph shall convene to determine appropriate intervention strategies for the student. The school shall provide at least 10 days' written notice of the meeting to the student's parent, indicating the meeting's purpose, time, and location, and provide the parent the opportunity to participate.

(c) Public disclosure.—The district school board shall provide information regarding the performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing educational services to students in Department of Juvenile Justice programs, and for those schools, report on the elements specified in s. 1003.52(17). Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without high school equivalency examinations, disaggregated by student ethnicity, and performance data as specified in state board rule.

(d) School improvement funds.—The district school board shall provide funds to schools for developing and implementing school improvement plans. Such funds shall include those funds appropriated for the purpose of school improvement pursuant to s. 24.121(5)(c).

(19) LOCAL-LEVEL DECISIONMAKING.—

(a) Adopt policies that clearly encourage and enhance maximum decisionmaking appropriate to the school site. Such policies must include guidelines for schools in the adoption and purchase of district and school site instructional materials and technology, the implementation of student health and fitness standards, staff training, school advisory council member training, student support services, budgeting, and the allocation of staff resources.

(b) Adopt waiver process policies to enable all schools to exercise maximum flexibility and notify advisory councils of processes to waive school

district and state policies.

(c) Develop policies for periodically monitoring the membership composition of school advisory councils to ensure compliance with requirements established in s. 1001.452.

(d) Adopt policies that assist in giving greater autonomy, including authority over the allocation of the school's budget, to schools designated with a grade of "A," making excellent progress, and schools rated as having improved at least two grades.

(20) **OPPORTUNITY SCHOLARSHIPS.**—Adopt policies allowing students attending schools that have earned a grade of "F" or three consecutive grades of "D" pursuant to s. 1008.34 to attend a higher-performing school in the district or any other district in the state, in conformance with s. 1002.38 and State Board of Education rule.

(21) **AUTHORITY TO DECLARE AN EMERGENCY.**—May declare an emergency in cases in which one or more schools in the district are failing or are in danger of failing and negotiate special provisions of its contract with the appropriate bargaining units to free these schools from contract restrictions that limit the school's ability to implement programs and strategies needed to improve student performance.

(22) **SCHOOL-WITHIN-A-SCHOOL.**—In order to reduce the anonymity of students in large schools, adopt policies to encourage any large school to subdivide into schools-within-a-school that shall operate within existing resources in accordance with the provisions of chapter 1003.

(23) **VIRTUAL INSTRUCTION.**—Provide students with access to courses available through a virtual instruction program option, including the Florida Virtual School and other approved providers, and award credit for successful completion of such courses.

(24) **EMPLOYMENT CONTRACTS.**—If a school district enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an officer, agent, employee, or contractor which contains a provision for severance pay, the contract or employment agreement must include the provisions of s. 215.425.

(25) **INTERLOCAL AGREEMENTS.**—Each district school board shall enter into an interlocal agreement as provided in s. 163.01 for the purpose of establishing the School District Consortium and maximizing the purchasing power for goods and services. A consortium may be statewide or regional, as appropriate to achieve the lowest cost. This subsection does not prohibit a district school board from utilizing a state contract.

(26) **TECHNICAL CENTER GOVERNING BOARD.**—May appoint a governing board for a school district technical center or a system of technical centers for the purpose of aligning the educational programs of the technical center with the needs of local businesses and responding quickly to the needs of local businesses for employees holding industry certifications. A technical center governing board shall be comprised of seven members, three of whom must be members of the district school board or their designees and four of whom must be local business leaders. The district school board shall delegate to the technical center governing board decisions regarding entrance requirements for students, curriculum, program development, budget and funding allocations, and the development with local businesses of partnership agreements and appropriate industry certifications in order to meet local and regional economic needs. A technical center governing board may approve only courses and programs that contain industry certifications. A course may be continued if at least 25 percent of the students enrolled in the course attain an industry certification. If fewer than 25 percent of the students enrolled in a course attain an industry certification, the course must be discontinued the following year.

(27) **ADOPT RULES.**—Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

History.—s. 55, ch. 2002-387; s. 3, ch. 2003-118; s. 29, ch. 2003-391; s. 27, ch. 2004-41; s. 3, ch. 2004-255; s. 8, ch. 2004-333; s. 71, ch. 2004-357; s. 11, ch. 2006-74; s. 9, ch. 2008-108; s. 2, ch. 2009-3; s. 6, ch. 2009-59; s. 2, ch. 2009-144; s. 198, ch. 2010-102; s. 2, ch. 2011-128; s. 2, ch. 2011-175; s. 4, ch. 2012-133; s. 1, ch. 2012-194; s. 3, ch. 2013-27; s. 6, ch. 2013-45; s. 39, ch. 2013-226; s. 362, ch. 2014-19; s. 15, ch. 2014-20; s. 2, ch. 2014-23; s. 1, ch. 2014-184.

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**1001.451 Regional consortium service organizations.**—In order to provide a full range of programs to larger numbers of students, minimize duplication of services, and encourage the development of new programs and services:

(1) School districts with 20,000 or fewer unweighted full-time equivalent students, developmental research (laboratory) schools established pursuant to s. 1002.32, and the Florida School for the Deaf and the Blind may enter into cooperative agreements to form a regional consortium service organization. Each regional consortium service

organization shall provide, at a minimum, three of the following services: exceptional student education; teacher education centers; environmental education; federal grant procurement and coordination; data processing; health insurance; risk management insurance; staff development; purchasing; or planning and accountability.

(2)(a) Each regional consortium service organization that consists of four or more school districts is eligible to receive, through the Department of Education, subject to the funds provided in the General Appropriations Act, an incentive grant

of \$50,000 per school district and eligible member to be used for the delivery of services within the participating school districts. The determination of services and use of such funds shall be established by the board of directors of the regional consortium service organization. The funds shall be distributed to each regional consortium service organization no later than 30 days following the release of the funds to the department.

(b) Application for incentive grants shall be made to the Commissioner of Education by July 30 of each year for distribution to qualifying regional consortium service organizations by January 1 of the fiscal year.

(3) In order to economically provide programs and services to participating school districts and members, a regional consortium service organization may establish purchasing and bidding programs, including construction and construction management arrangements, in lieu of individual school district bid arrangements pursuant to policies exercised by its member districts. Participation in regional consortium service organization bids shall be accomplished by action of an individual district school board through a letter of intent to participate and shall be reflected in official district

school board minutes.

(4) A regional consortium service organization board of directors may elect to establish a direct-support organization pursuant to s. 1001.453 which is independent of its fiscal agent district.

(5) The board of directors of a regional consortium service organization may use various means to generate revenue in support of its activities. The board of directors may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or interests thereunder or therein shall vest in the state, with the board of directors having full right of use and full right to retain the revenues derived therefrom. Any funds realized from patents, copyrights, trademarks, or licenses shall be considered internal funds as provided in s. 1011.07. Such funds shall be used to support the organization's marketing and research and development activities in order to improve and increase services to its member districts.

History.—s. 58, ch. 2002-387; s. 3, ch. 2005-56; s. 2, ch. 2006-27; s. 17, ch. 2006-301; s. 3, ch. 2008-142; s. 7, ch. 2009-59; s. 4, ch. 2010-154; s. 7, ch. 2011-55; s. 11, ch. 2012-6.

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**1001.49 General powers of district school superintendent.**—The district school superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the district school superintendent shall exercise the following powers:

(1) **GENERAL OVERSIGHT.**—Exercise general oversight over the district school system in order to determine problems and needs, and recommend improvements.

(2) **ADVISE, COUNSEL, AND RECOMMEND TO DISTRICT SCHOOL BOARD.**—Advise and counsel with the district school board on all educational matters and recommend to the district school board for action such matters as should be acted upon.

(3) **RECOMMEND POLICIES.**—Recommend to the district school board for adoption such policies pertaining to the district school system as the district school superintendent may consider necessary for its more efficient operation.

(4) **RECOMMEND AND EXECUTE RULES.**—Prepare and organize by subjects and submit to the district school board for adoption such rules to

supplement those adopted by the State Board of Education as, in the district school superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules have been adopted, the district school superintendent shall see that they are executed.

(5) **RECOMMEND AND EXECUTE MINIMUM STANDARDS.**—From time to time prepare, organize by subject, and submit to the district school board for adoption such minimum standards relating to the operation of any phase of the district school system as are needed to supplement those adopted by the State Board of Education and as will contribute to the efficient operation of any aspect of education in the district and ensure that minimum standards adopted by the district school board and the state board are observed.

(6) **PERFORM DUTIES AND EXERCISE RESPONSIBILITIES.**—Perform such duties and exercise such responsibilities as are assigned to the district school superintendent by law and by rules of the State Board of Education.

History.—s. 69, ch. 2002-387.

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**1001.51 Duties and responsibilities of district school superintendent.**—The district school superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law, provided that, in so doing, he or she shall advise and counsel with the district school board. The district school superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by

law to be acted upon by the district school board. All such recommendations, nominations, proposals, and reports by the district school superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the district school board. It shall be presumed that, in the absence of the record required in this section, the recommendations, nominations, and proposals required of the



district school superintendent were not contrary to the action taken by the district school board in such matters.

(1) ASSIST IN ORGANIZATION OF DISTRICT SCHOOL BOARD.-Preside at the organization meeting of the district school board and transmit to the Department of Education, within 2 weeks following such meeting, a certified copy of the proceedings of organization, including the schedule of regular meetings, and the names and addresses of district school officials.

(2) REGULAR AND SPECIAL MEETINGS OF THE DISTRICT SCHOOL BOARD.-Attend all regular meetings of the district school board, call special meetings when emergencies arise, and advise, but not vote, on questions under consideration.

(3) RECORDS FOR THE DISTRICT SCHOOL BOARD.-Keep minutes of all official actions and proceedings of the district school board and keep such other records, including records of property held or disposed of by the district school board, as may be necessary to provide complete information regarding the district school system.

(4) SCHOOL PROPERTY.-Act for the district school board as custodian of school property.

(5) SCHOOL PROGRAM; PREPARE PLANS.-Supervise the assembling of data and sponsor studies and surveys essential to the development of a planned school program for the entire district and prepare and recommend such a program to the district school board as the basis for operating the district school system.

(6) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS, CLASSES, AND SERVICES.-Recommend the establishment, organization, and operation of such schools, classes, and services as are needed to provide adequate educational opportunities for all children in the district.

(7) PERSONNEL.-Be responsible, as required herein, for directing the work of the personnel, subject to the requirements of chapter 1012.

(8) COURSES OF STUDY AND OTHER INSTRUCTIONAL AIDS.-Recommend such plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional aids as will result in general improvement of the district school system, as prescribed in chapter 1006.

(9) TRANSPORTATION OF STUDENTS.-Provide for student transportation as prescribed in s. 1006.21.

(10) SCHOOL PLANT.-Recommend plans, and execute such plans as are approved, regarding all phases of the school plant program, as prescribed in chapter 1013.

(11) FINANCE.-Recommend measures to the district school board to assure adequate educational facilities throughout the district, in accordance with the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

(a) Plan for operating all schools for minimum

term.-Determine and recommend district funds necessary in addition to state funds to provide for at least a 180-day school term or the equivalent on an hourly basis as specified by rules adopted by the State Board of Education and recommend plans for ensuring the operation of all schools for the term authorized by the district school board.

(b) Annual budget.-Prepare the annual school budget to be submitted to the district school board for adoption according to law and submit this budget, when adopted by the district school board, to the Department of Education on or before the date required by rules of the State Board of Education.

(c) Tax levies.-Recommend to the district school board, on the basis of the needs shown by the budget, the amount of district school tax levy necessary to provide the district school funds needed for the maintenance of the public schools; recommend to the district school board the tax levy required on the basis of the needs shown in the budget for the district bond interest and sinking fund of each district; and recommend to the district school board to be included on the ballot at each district millage election the school district tax levies necessary to carry on the school program.

(d) School funds.-Keep an accurate account of all funds that should be transmitted to the district school board for school purposes at various periods during the year and ensure, insofar as possible, that these funds are transmitted promptly and report promptly to the district school board any delinquencies or delays that occur in making available any funds that should be made available for school purposes.

(e) Borrowing money.-Recommend when necessary the borrowing of money as prescribed by law.

(f) Financial records and accounting.-Keep or have kept accurate records of all financial transactions.

(g) Payrolls and accounts.-Maintain accurate and current statements of accounts due to be paid by the district school board; certify these statements as correct; liquidate district school board obligations in accordance with the official budget and rules of the district school board; and prepare periodic reports as required by rules of the State Board of Education, showing receipts, balances, and disbursements to date, and file copies of such periodic reports with the Department of Education.

(h) Bonds for employees.-Recommend the bonds of all school employees who should be bonded in order to provide reasonable safeguards for all school funds or property.

(i) Contracts.-After study of the feasibility of contractual services with industry, recommend to the district school board the desirable terms, conditions, and specifications for contracts for supplies, materials, or services to be rendered and see that materials, supplies, or services are provided

according to contract.

(j) Investment policies.-After careful examination, recommend policies to the district school board that will provide for the investment or deposit of school funds not needed for immediate expenditures which shall earn the maximum possible yield under the circumstances on such investments or deposits. The district school superintendent shall cause to be invested at all times all school moneys not immediately needed for expenditures pursuant to the policies of the district school board.

(k) Protection against loss.-Recommend programs and procedures to the district school board necessary to protect the school system adequately against loss or damage to school property or against loss resulting from any liability for which the district school board or its officers, agents, or employees may be responsible under law.

(l) Millage elections.-Recommend plans and procedures for holding and supervising all school district millage elections.

(m) Budgets and expenditures.-Prepare, after consulting with the principals of the various schools, tentative annual budgets for the expenditure of district funds for the benefit of public school students of the district.

(n) Bonds.-Recommend the amounts of bonds to be issued in the district and assist in the preparation of the necessary papers for an election to determine whether the proposed bond issue will be approved by the electors and, if such bond issue be approved by the electors, recommend plans for the sale of bonds and for the proper expenditure of the funds derived therefrom.

(12) RECORDS AND REPORTS.-Recommend such records as should be kept in addition to those prescribed by rules of the State Board of Education; prepare forms for keeping such records as are approved by the district school board; ensure that such records are properly kept; and make all reports that are needed or required, as follows:

(a) Forms, blanks, and reports.-Require that all employees accurately keep all records and promptly make in proper form all reports required by the education code or by rules of the State Board of Education; recommend the keeping of such additional records and the making of such additional reports as may be deemed necessary to provide data essential for the operation of the school system; and prepare such forms and blanks as may be required and ensure that these records and reports are properly prepared.

(b) Reports to the department.-Prepare, for the approval of the district school board, all reports required by law or rules of the State Board of Education to be made to the department and transmit promptly all such reports, when approved, to the department, as required by law. If any reports are not transmitted at the time and in the manner prescribed by law or by State Board of

Education rules, the salary of the district school superintendent must be withheld until the report has been properly submitted. Unless otherwise provided by rules of the State Board of Education, the annual report on attendance and personnel is due on or before July 1, and the annual school budget and the report on finance are due on the date prescribed by the commissioner.

Any district school superintendent who knowingly signs and transmits to any state official a report that the superintendent knows to be false or incorrect; who knowingly fails to investigate any allegation of misconduct by instructional personnel or school administrators, as defined in s. 1012.01, which affects the health, safety, or welfare of a student; or who knowingly fails to report the alleged misconduct to the department as required in s. 1012.796, forfeits his or her salary for 1 year following the date of such act or failure to act.

(13) COOPERATION WITH OTHER AGENCIES.-

(a) Cooperation with governmental agencies in enforcement of laws and rules.-Recommend plans for cooperating with, and, on the basis of approved plans, cooperate with federal, state, county, and municipal agencies in the enforcement of laws and rules pertaining to all matters relating to education and child welfare.

(b) Identifying and reporting names of migratory children, other information.-Recommend plans for identifying and reporting to the Department of Education the name of each child in the school district who qualifies according to the definition of a migratory child, based on Pub. L. No. 95-561, and for reporting such other information as may be prescribed by the department.

(14) ENFORCEMENT OF LAWS AND RULES.-Require that all laws and rules of the State Board of Education, as well as supplementary rules of the district school board, are properly observed and report to the district school board any violation that the district school superintendent does not succeed in having corrected.

(15) COOPERATE WITH DISTRICT SCHOOL BOARD.-Cooperate with the district school board in every manner practicable to the end that the district school system may continuously be improved.

(16) VISITATION OF SCHOOLS.-Visit the schools; observe the management and instruction; give suggestions for improvement; and advise supervisors, principals, teachers, and other citizens with the view of promoting interest in education and improving the school conditions of the district.

(17) CONFERENCES, INSTITUTES, AND STUDY COURSES.-Call and conduct institutes and conferences with employees of the district school board, school patrons, and other interested citizens; organize and direct study and extension courses for employees, advising them as to their professional studies; and assist patrons and people generally in acquiring knowledge of the aims, services, and



needs of the schools.

(18) **PROFESSIONAL AND GENERAL IMPROVEMENT.**-Attend such conferences for district school superintendents as may be called or scheduled by the Department of Education and avail himself or herself of means of professional and general improvement so that he or she may function most efficiently.

(19) **RECOMMEND REVOKING CERTIFICATES.**-Recommend in writing to the Department of Education the revoking of any certificate for good cause, including a full statement of the reason for the district school superintendent's recommendation.

(20) **MAKE RECORDS AVAILABLE TO SUCCESSOR.**-Leave with the district school board and make available to his or her successor, upon retiring from office, a complete inventory of school equipment and other property, together with all official records and such other records as may be needed in supervising instruction and in administering the district school system.

(21) **RECOMMEND PROCEDURES FOR INFORMING GENERAL PUBLIC.**-Recommend to the district school board procedures whereby the general public

can be adequately informed of the educational programs, needs, and objectives of public education within the district.

(22) **SCHOOL IMPROVEMENT AND ACCOUNTABILITY.**-Recommend procedures for implementing and maintaining a system of school improvement and education accountability as provided by statute and State Board of Education rule.

(23) **PARENTAL INVOLVEMENT.**-Fully support and cooperate in the implementation of s. 1002.23.

(24) **ORDERLY CLASSROOMS AND SCHOOL BUSES.**-Fully support the authority of each teacher and school bus driver to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and the authority of the school principal to place such students in an alternative educational setting, when appropriate and available.

(25) **OTHER DUTIES AND RESPONSIBILITIES.**-Perform such other duties as are assigned to the district school superintendent by law or by rules of the State Board of Education.

History.-s. 71, ch. 2002-387; s. 4, ch. 2003-118; s. 30, ch. 2003-391; s. 30, ch. 2004-41; s. 12, ch. 2006-74; s. 11, ch. 2008-108.

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#### **1001.52 Reproduction and destruction of district school records.—**

(1) The purpose of this section is to reduce the present space required by the district school systems for the storage of their records and to permit the district school superintendent to administer the affairs of the district school system more efficiently.

(2) After complying with the provisions of s. 257.37, the district school superintendent may photograph, microphotograph, or reproduce documents, records, data, and information of a permanent character which in his or her discretion he or she may select, and the district school superintendent may destroy any of the said documents after they have been reproduced and after audit of the district school superintendent's office has been completed for the period embracing the dates of said instruments. Information made in compli-

ance with the provisions of this section shall have the same force and effect as the originals thereof would have, and shall be treated as originals for the purpose of their admissibility into evidence. Duly certified or authenticated reproductions shall be admitted into evidence equally with the originals.

(3) After complying with the provisions of s. 257.37, the district school superintendent may, in his or her discretion, destroy general correspondence that is over 3 years old and other records, papers, and documents over 3 years old that do not serve as part of an agreement or understanding and do not have value as permanent records.

History.—s. 72, ch. 2002-387.

# Florida Statutes Pertaining to Special Programs

## Chapter 1002

### Student and Parental Rights and Educational Choices

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

(1) **SYSTEM OF EDUCATION.**—In accordance with s. 1, Art. IX of the State Constitution, all K-12 public school students are entitled to a uniform, safe, secure, efficient, and high quality system of education, one that allows students the opportunity to obtain a high quality education. Parents are responsible to ready their children for school; however, the State of Florida cannot be the guarantor of each individual student's success.

(2) **ATTENDANCE.**—

(a) **Compulsory school attendance.**—The compulsory school attendance laws apply to all children between the ages of 6 and 16 years, as provided in s. 1003.21(1) and (2)(a), and, in accordance with the provisions of s. 1003.21(1) and (2)(a):

1. A student who attains the age of 16 years during the school year has the right to file a formal declaration of intent to terminate school enrollment if the declaration is signed by the parent. The parent has the right to be notified by the school district of the district's receipt of the student's declaration of intent to terminate school enrollment.

2. Students who become or have become married or who are pregnant and parenting have the right to attend school and receive the same or equivalent educational instruction as other students.

(b) **Regular school attendance.**—Parents of students who have attained the age of 6 years by February 1 of any school year but who have not attained the age of 16 years must comply with the compulsory school attendance laws. Parents have the option to comply with the school attendance laws by attendance of the student in a public school; a parochial, religious, or denominational school; a private school; a home education program; or a private tutoring program, in accordance with the provisions of s. 1003.01(13).

(c) **Absence for religious purposes.**—A parent of a public school student may request and be granted permission for absence of the student from school for religious instruction or religious holidays, in accordance with the provisions of s. 1003.21(2)(b).

(d) **Dropout prevention and academic intervention programs.**—The parent of a public school student has the right to receive written notice by certified mail prior to placement of the student in a dropout prevention and academic intervention program and shall be notified in writing and entitled to an administrative review of any action by school personnel relating to the student's placement, in accordance with the provisions of s. 1003.53(5).

(3) **HEALTH ISSUES.**—

(a) **School-entry health examinations.**—The parent of any child attending a public or private school shall be exempt from the requirement of a health examination upon written request stating objections on religious grounds in accordance with the provisions of s. 1003.22(1) and (2).

(b) **Immunizations.**—The parent of any child attending a public or private school shall be exempt from the school immunization requirements upon meeting any of the exemptions in accordance with the provisions of s. 1003.22(5).

(c) **Biological experiments.**—Parents may request that their child be excused from performing surgery or dissection in biological science classes in accordance with the provisions of s. 1003.47.

(d) **Reproductive health and disease education.**—A public school student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, in accordance with the provisions of s. 1003.42(3).

(e) **Contraceptive services to public school students.**—In accordance with the provisions of s. 1006.062(7), students may not be referred to or offered contraceptive services at school facilities without the parent's consent.

(f) **Career education courses involving hazardous substances.**—High school students must be given plano safety glasses or devices in career education courses involving the use of hazardous substances likely to cause eye injury.

(g) **Substance abuse reports.**—The parent of a public school student must be timely notified of any verified report of a substance abuse violation by the student, in accordance with the provisions of s. 1006.09(8).

(h) **Inhaler use.**—Asthmatic students whose parent and physician provide their approval to the school principal may carry a metered dose inhaler on their person while in school. The school principal shall be provided a copy of the parent's and physician's approval.

(i) Epinephrine use and supply.—

1. A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

2. A public school may purchase from a wholesale distributor as defined in s. 499.003 and maintain in a locked, secure location on its premises a supply of epinephrine auto-injectors for use if a student is having an anaphylactic reaction. The participating school district shall adopt a protocol developed by a licensed physician for the administration by school personnel who are trained to recognize an anaphylactic reaction and to administer an epinephrine auto-injection. The supply of epinephrine auto-injectors may be provided to and used by a student authorized to self-administer epinephrine by auto-injector under subparagraph 1. or trained school personnel.

3. The school district and its employees and agents, including the physician who provides the standing protocol for school epinephrine auto-injectors, are not liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

a. Unless the trained school personnel's action is willful and wanton;

b. Notwithstanding that the parents or guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

c. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced registered nurse practitioner.

(j) Diabetes management.—A school district may not restrict the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time school nurse, or that the school does not have trained diabetes personnel. Diabetic students whose parent and physician provide their

written authorization to the school principal may carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities to the extent authorized by the parent and physician and within the parameters set forth by State Board of Education rule. The written authorization shall identify the diabetic supplies and equipment that the student is authorized to carry and shall describe the activities the child is capable of performing without assistance, such as performing blood-glucose level checks and urine ketone testing, administering insulin through the insulin-delivery system used by the student, and treating hypoglycemia and hyperglycemia. The State Board of Education, in cooperation with the Department of Health, shall adopt rules to encourage every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care. The State Board of Education, in cooperation with the Department of Health, shall also adopt rules for the management and care of diabetes by students in schools that include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment. A school district, county health department, and public-private partner, and the employees and volunteers of those entities, shall be indemnified by the parent of a student authorized to carry diabetic supplies or equipment for any and all liability with respect to the student's use of such supplies and equipment pursuant to this paragraph.

(k) Use of prescribed pancreatic enzyme supplements.—A student who has experienced or is at risk for pancreatic insufficiency or who has been diagnosed as having cystic fibrosis may carry and self-administer a prescribed pancreatic enzyme supplement while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with authorization from the student's parent and prescribing practitioner. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for the use of prescribed pancreatic enzyme supplements which shall include provisions to protect the safety of all students from the misuse or abuse of the supplements. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to use prescribed pancreatic enzyme supplements for any and all liability with respect to the student's use of the supplements under this paragraph.

(4) DISCIPLINE.—

(a) Suspension of public school student.—In accordance with the provisions of s. 1006.09(1)-(4):

1. A student may be suspended only as pro-

vided by rule of the district school board. A good faith effort must be made to immediately inform the parent by telephone of the student's suspension and the reason. Each suspension and the reason must be reported in writing within 24 hours to the parent by United States mail. A good faith effort must be made to use parental assistance before suspension unless the situation requires immediate suspension.

2. A student with a disability may only be recommended for suspension or expulsion in accordance with State Board of Education rules.

(b) Expulsion.—Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1).

(c) Corporal punishment.—

1. In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request, the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

2. A district school board having a policy authorizing the use of corporal punishment as a form of discipline shall review its policy on corporal punishment once every 3 years during a district school board meeting held pursuant to s. 1001.372. The district school board shall take public testimony at the board meeting. If such board meeting is not held in accordance with this subparagraph, the portion of the district school board's policy authorizing corporal punishment expires.

(5) SAFETY.—In accordance with the provisions of s. 1006.13(6), students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

(6) EDUCATIONAL CHOICE.—

(a) Public school choices.—Parents of public school students may seek whatever public school choice options that are applicable and available to students in their school districts. These options may include controlled open enrollment, single-gender programs, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, International General

Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public school choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

(b) Private school choices.—Parents of public school students may seek private school choice options under certain programs.

1. Under the McKay Scholarships for Students with Disabilities Program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school in accordance with s. 1002.39.

2. Under the Florida Tax Credit Scholarship Program, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care as defined in s. 39.01 may seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with s. 1002.395.

(c) Home education.—The parent of a student may choose to place the student in a home education program in accordance with the provisions of s. 1002.41.

(d) Private tutoring.—The parent of a student may choose to place the student in a private tutoring program in accordance with the provisions of s. 1002.43(1).

(7) NONDISCRIMINATION.—All education programs, activities, and opportunities offered by public educational institutions must be made available without discrimination on the basis of race, ethnicity, national origin, gender, disability, or marital status, in accordance with the provisions of s. 1000.05.

(8) STUDENTS WITH DISABILITIES.—Parents of public school students with disabilities and parents of public school students in residential care facilities are entitled to notice and due process in accordance with the provisions of ss. 1003.57 and 1003.58. Public school students with disabilities must be provided the opportunity to meet the graduation requirements for a standard high school diploma as set forth in s. 1003.4282 in accordance with the provisions of ss. 1003.57 and 1008.22. Pursuant to s. 1003.438, certain public school students with disabilities may be awarded a special diploma upon high school graduation.

(9) BLIND STUDENTS.—Blind students have the right to an individualized written education program and appropriate instructional materials to attain literacy, in accordance with provisions of s. 1003.55.

(10) LIMITED ENGLISH PROFICIENT STUDENTS.—In accordance with the provisions of s.

1003.56, limited English proficient students have the right to receive ESOL (English for Speakers of Other Languages) instruction designed to develop the student's mastery of listening, speaking, reading, and writing in English as rapidly as possible, and the students' parents have the right of parental involvement in the ESOL program.

(11) **STUDENTS WITH READING DEFICIENCIES.**—Each elementary school shall regularly assess the reading ability of each K-3 student. The parent of any K-3 student who exhibits a reading deficiency shall be immediately notified of the student's deficiency with a description and explanation, in terms understandable to the parent, of the exact nature of the student's difficulty in learning and lack of achievement in reading; shall be consulted in the development of a progress monitoring plan, as described in s. 1008.25(4)(b); and shall be informed that the student will be given intensive reading instruction until the deficiency is corrected. This subsection operates in addition to the remediation and notification provisions contained in s. 1008.25 and in no way reduces the rights of a parent or the responsibilities of a school district under that section.

(12) **PLEDGE OF ALLEGIANCE.**—A public school student must be excused from reciting the pledge of allegiance upon written request by the student's parent, in accordance with the provisions of s. 1003.44.

(13) **STUDENT RECORDS.**—

(a) **Parent rights.**—Parents have rights regarding the student records of their children, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of s. 1002.22.

(b) **Student rights.**—In accordance with the provisions of s. 1008.386, a student is not required to provide his or her social security number as a condition for enrollment or graduation.

(14) **STUDENT REPORT CARDS.**—Students and their parents have the right to receive student report cards on a regular basis that clearly depict and grade the student's academic performance in each class or course, the student's conduct, and the student's attendance, in accordance with the provisions of s. 1003.33.

(15) **STUDENT PROGRESS REPORTS.**—Parents of public school students shall be apprised at regular intervals of the academic progress and other needed information regarding their child, in accordance with the provisions of s. 1003.02(1)(h)2.

(16) **SCHOOL ACCOUNTABILITY AND SCHOOL IMPROVEMENT RATING REPORTS.**—Parents of public school students are entitled to an easy-to-read report card about the school's grade designation or, if applicable under s. 1008.341, the school's improvement rating, and the school's accountability report, including the school financial report as required under s. 1010.215.

(17) **ATHLETICS; PUBLIC HIGH SCHOOL.**—

(a) **Eligibility.**—Eligibility requirements for all students participating in high school athletic competition must allow a student to be eligible in the school in which he or she first enrolls each school year, the school in which the student makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, or the school to which the student has transferred with approval of the district school board, in accordance with the provisions of s. 1006.20(2)(a).

(b) **Medical evaluation.**—Students must satisfactorily pass a medical evaluation each year before participating in athletics, unless the parent objects in writing based on religious tenets or practices, in accordance with the provisions of s. 1006.20(2)(d).

(18) **EXTRACURRICULAR ACTIVITIES.**—In accordance with the provisions of s. 1006.15:

(a) **Eligibility.**—Students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities.

(b) **Home education students.**—Home education students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school.

(c) **Charter school students.**—Charter school students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, unless such activity is provided by the student's charter school.

(d) **Florida Virtual School full-time students.**—Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies.

(e) **Discrimination prohibited.**—Organizations that regulate or govern extracurricular activities of public schools shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

(19) **INSTRUCTIONAL MATERIALS.**—

(a) **Core courses.**—Each public school student is entitled to sufficient instructional materials in the core courses of mathematics, language arts, social studies, science, reading, and literature, in accordance with the provisions of ss. 1003.02(1)(d) and 1006.40(2).

(b) **Curricular objectives.**—The parent of each public school student has the right to receive effective communication from the school principal



as to the manner in which instructional materials are used to implement the school's curricular objectives, in accordance with the provisions of s. 1006.28(3)(a).

(c) Sale of instructional materials.—Upon request of the parent of a public school student, the school principal must sell to the parent any instructional materials used in the school, in accordance with the provisions of s. 1006.28(3)(c).

(d) Dual enrollment students.—Instructional materials purchased by a district school board or Florida College System institution board of trustees on behalf of public school dual enrollment students shall be made available to the dual enrollment students free of charge, in accordance with s. 1007.271(17).

(20) JUVENILE JUSTICE PROGRAMS.—Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.52.

(21) PARENTAL INPUT AND MEETINGS.—

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

1. Such meetings include, but are not limited to, meetings related to: the eligibility for exceptional student education or related services; the development of an individual family support plan (IFSP); the development of an individual education plan (IEP); the development of a 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973; the transition of a student from early intervention services to other services; the development of postsecondary goals for a student with a disability and the transition services needed to reach those goals; and other issues that may affect the educational environment, discipline, or placement of a student with a disability.

2. The parents and school district personnel attending the meeting shall sign a document at

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#### **1002.21 Postsecondary student and parent rights.—**

(1) LEARNING DISABLED STUDENTS.—Impaired and learning disabled students may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the provisions of ss. 1007.264 and 1007.265.

(2) EXPULSION, SUSPENSION, DISCIPLINE.—

the meeting's conclusion which states whether any school district personnel have prohibited, discouraged, or attempted to discourage the parents from inviting a person of their choice to the meeting.

(b) District school board educational facilities programs.—Parents of public school students and other members of the public have the right to receive proper public notice and opportunity for public comment regarding the district school board's educational facilities work program, in accordance with the provisions of s. 1013.35.

(22) TRANSPORTATION.—

(a) Transportation to school.—Public school students shall be provided transportation to school, in accordance with the provisions of s. 1006.21(3)(a).

(b) Hazardous walking conditions.—K-6 public school students shall be provided transportation if they are subjected to hazardous walking conditions, in accordance with the provisions of ss. 1006.21(3)(b) and 1006.23.

(c) Parental consent.—Each parent of a public school student must be notified in writing and give written consent before the student may be transported in a privately owned motor vehicle to a school function, in accordance with the provisions of s. 1006.22(2)(b).

(23) ORDERLY, DISCIPLINED CLASSROOMS.—Public school students shall be in orderly, disciplined classrooms conducive to learning without the distraction caused by disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students, in accordance with s. 1003.32.

(24) ECONOMIC SECURITY REPORT.—Beginning in the 2014-2015 school year and annually thereafter, each middle school and high school student or the student's parent prior to registration shall be provided a two-page summary of the Department of Economic Opportunity's economic security report of employment and earning outcomes prepared pursuant to s. 445.07 and electronic access to the report.

History.—s. 92, ch. 2002-387; s. 6, ch. 2003-118; s. 32, ch. 2003-391; s. 33, ch. 2004-41; s. 5, ch. 2004-42; s. 77, ch. 2004-357; s. 2, ch. 2005-75; s. 1, ch. 2005-196; s. 14, ch. 2006-74; s. 170, ch. 2007-5; s. 2, ch. 2008-26; s. 2, ch. 2008-147; s. 1, ch. 2009-53; s. 4, ch. 2009-108; s. 13, ch. 2010-24; s. 2, ch. 2010-57; s. 1, ch. 2010-184; s. 25, ch. 2011-5; s. 3, ch. 2011-128; s. 12, ch. 2011-137; s. 4, ch. 2011-175; s. 2, ch. 2012-22; s. 1, ch. 2012-188; s. 4, ch. 2012-191; s. 1, ch. 2012-192; s. 6, ch. 2012-195; s. 41, ch. 2013-35; s. 2, ch. 2013-63; s. 1, ch. 2013-236; s. 173, ch. 2014-17; s. 20, ch. 2014-39.

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Public postsecondary education students may be expelled, suspended, or otherwise disciplined by the president of a public postsecondary educational institution after notice to the student of the charges and a hearing on the charges, in accordance with the provisions of s. 1006.62.

(3) RELIGIOUS BELIEFS.—Public postsecondary educational institutions must provide reasonable accommodations for the religious practices and beliefs of individual students in regard to admissions,

class attendance, and the scheduling of examinations and work assignments, in accordance with the provisions of s. 1006.53, and must provide and describe in the student handbook a grievance procedure for students to seek redress when they feel they have been unreasonably denied an educational benefit due to their religious beliefs or practices.

(4) **STUDENT HANDBOOKS.**—Each state university and Florida College System institution shall provide its students with an up-to-date student handbook that includes student rights and responsibilities, appeals processes available to students, contact persons available to help students, student conduct code, and information regarding HIV and AIDS, in accordance with the provisions of s. 1006.50.

#### **1002.22 Education records and reports of K-12 students; rights of parents and students; notification; penalty.—**

(1) **DEFINITIONS.**—As used in this section, the term:

(a) “Agency” means any board, agency, or other entity that provides administrative control or direction of or performs services for public elementary or secondary schools, centers, or other institutions as defined in this chapter.

(b) “Institution” means any public school, center, institution, or other entity that is part of Florida’s education system under s. 1000.04(1), (3), and (4).

(2) **RIGHTS OF STUDENTS AND PARENTS.**—The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and this section. In order to maintain the eligibility of public educational institutions and agencies to receive federal funds and participate in federal programs, the State Board of Education shall comply with the FERPA after the board has evaluated and determined that the FERPA is consistent with the following principles:

(a) Students and their parents shall have the right to access their education records, including the right to inspect and review those records.

(b) Students and their parents shall have the right to waive their access to their education records in certain circumstances.

(c) Students and their parents shall have the right to challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise a violation of privacy or other rights.

#### **1002.222 Limitations on collection of information and disclosure of confidential and exempt student records.—**

(1) An agency or institution as defined in s. 1002.22(1) may not:

(a) Collect, obtain, or retain information on

(5) **STUDENT OMBUDSMAN OFFICE.**—Each state university and Florida College System institution shall maintain a student ombudsman office and established procedures for students to appeal to the office regarding decisions about the student’s access to courses and credit granted toward the student’s degree, in accordance with the provisions of s. 1006.51.

History.—s. 93, ch. 2002-387; s. 8, ch. 2003-8; s. 1, ch. 2009-239; s. 26, ch. 2011-5.

rate, misleading, or otherwise a violation of privacy or other rights.

(d) Students and their parents shall have the right of privacy with respect to such records and reports.

(e) Students and their parents shall receive annual notice of their rights with respect to education records.

(3) **DUTIES AND RESPONSIBILITIES.**—The State Board of Education shall:

(a) Adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(b) Monitor the FERPA and notify the Legislature of any significant change to the requirements of the FERPA or other major changes in federal law which may impact this section.

(c) Advise the Legislature of any change in the FERPA which may create a need for an exemption to the requirements of s. 24(a), Art. I of the State Constitution.

(4) **PENALTY.**—If any official or employee of an institution refuses to comply with this section, the aggrieved parent or student has an immediate right to bring an action in circuit court to enforce his or her rights by injunction. Any aggrieved parent or student who receives injunctive relief may be awarded attorney fees and court costs.

(5) **APPLICABILITY TO RECORDS OF DEFUNCT INSTITUTIONS.**—This section applies to student records that any nonpublic educational institution that is no longer operating has deposited with the district school superintendent in the county where the nonpublic educational institution was located.

History.—s. 94, ch. 2002-387; s. 4, ch. 2004-356; s. 78, ch. 2004-357; s. 13, ch. 2004-484; s. 2, ch. 2009-239; s. 1, ch. 2014-41.

the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of the student. For purposes of this subsection, the term “biometric information” means information collected from the electronic measurement or evaluation of any physical or



behavioral characteristics that are attributable to a single person, including fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty. Examples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan. Notwithstanding the provisions of this paragraph, a school district that used a palm scanner system for identifying students for breakfast and lunch programs on March 1, 2014, may continue to use the palm scanner system through the 2014-2015 school year.

(b) Provide education records made confidential and exempt by s. 1002.221 or federal law to:

1. A person as defined in s. 1.01(3) except when authorized by s. 1002.221 or in response to a lawfully issued subpoena or court order;
2. A public body, body politic, or political

subdivision as defined in s. 1.01(8) except when authorized by s. 1002.221 or in response to a lawfully issued subpoena or court order; or

3. An agency of the Federal Government except when authorized by s. 1002.221, required by federal law, or in response to a lawfully issued subpoena or court order.

(2) The governing board of an agency or institution may only designate information as directory information in accordance with 20 U.S.C. s. 1232g and applicable federal regulations. Such designation must occur at a regularly scheduled meeting of the governing board. The governing board of an agency or institution must consider whether designation of such information would put students at risk of becoming targets of marketing campaigns, the media, or criminal acts. An agency or institution may charge fees for copies of designated directory information as provided in s. 119.07(4).

History.—s. 2, ch. 2014-41.

### **1002.23 Family and School Partnership for Student Achievement Act.—**

(1) The purpose of the Family and School Partnership for Student Achievement Act is to:

- (a) Provide parents with specific information about their child's educational progress;
- (b) Provide parents with comprehensive information about their choices and opportunities for involvement in their child's education; and
- (c) Provide a framework for building and strengthening partnerships among parents, teachers, principals, district school superintendents, and other personnel.

Each district school board, school district superintendent, and teacher shall fully support and cooperate in implementing a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education.

(2) To facilitate meaningful parent and family involvement, the Department of Education shall develop guidelines for a parent guide to successful student achievement which describes what parents need to know about their child's educational progress and how they can help their child to succeed in school. The guidelines shall include, but need not be limited to:

- (a) Parental information regarding:
  1. Requirements for their child to be promoted to the next grade, as provided for in s. 1008.25;
  2. Progress of their child toward achieving state and district expectations for academic proficiency;
  3. Assessment results, including report cards and progress reports;
  4. Qualifications of their child's teachers; and
  5. School entry requirements, including required immunizations and the recommended im-

munization schedule;

(b) Services available for parents and their children, such as family literacy services; mentoring, tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs;

(c) Opportunities for parental participation, such as parenting classes, adult education, school advisory councils, and school volunteer programs;

(d) Opportunities for parents to learn about rigorous academic programs that may be available for their child, such as honors programs, dual enrollment, advanced placement, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, Florida Virtual High School courses, and accelerated access to postsecondary education;

(e) Educational choices, as provided for in s. 1002.20(6), and Florida tax credit scholarships, as provided for in s. 1002.395;

(f) Classroom and test accommodations available for students with disabilities;

(g) School board rules, policies, and procedures for student promotion and retention, academic standards, student assessment, courses of study, instructional materials, and contact information for school and district offices; and

(h) Resources for information on student health and other available resources for parents.

(3) The Department of Education shall develop and disseminate a checklist for school districts to provide to parents to assist with the parent's involvement in their child's educational progress. The checklist shall address parental actions that:

- (a) Strengthen the child's academic progress, especially in the area of reading;

- (b) Strengthen the child's citizenship, especially social skills and respect for others;
  - (c) Strengthen the child's realization of high expectations and setting lifelong learning goals; and
  - (d) Place a strong emphasis on the communication between the school and the home.
- (4) Each district school board shall adopt rules that strengthen family involvement and family empowerment. The rules shall be developed in collaboration with parents, school administrators, teachers, and community partners, and shall address:
- (a) Parental choices and responsibilities;
  - (b) Links with community services;
  - (c) Opportunities for parental involvement in the development, implementation, and evaluation of family involvement programs; and
  - (d) Opportunities for parents to participate on school advisory councils and in school volunteer programs and other activities.
- (5) Each school district shall develop and disseminate a parent guide to successful student achievement, consistent with the guidelines of the Department of Education, which addresses what parents need to know about their child's educational progress and how parents can help their child to succeed in school. The guide must:
- (a) Be understandable to students and parents;
  - (b) Be distributed to all parents, students, and school personnel at the beginning of each school year;
  - (c) Be discussed at the beginning of each

school year in meetings of students, parents, and teachers;

(d) Include information concerning services, opportunities, choices, academic standards, and student assessment; and

(e) Provide information on the importance of student health and available immunizations and vaccinations, including, but not limited to:

1. A recommended immunization schedule in accordance with United States Centers for Disease Control and Prevention recommendations.

2. Detailed information regarding the causes, symptoms, and transmission of meningococcal disease and the availability, effectiveness, known contraindications, and appropriate age for the administration of any required or recommended vaccine against meningococcal disease, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention.

The parent guide may be included as a part of the code of student conduct that is required in s. 1006.07(2).

(6) Each school district shall develop and disseminate a checklist of parental actions that can strengthen parental involvement in their child's educational progress, consistent with the requirements in subsection (3). The checklist shall be provided each school year to all parents of students in kindergarten through grade 12 and shall focus on academics, especially reading, high expectations for students, citizenship, and communication.

History.—s. 2, ch. 2003-118; s. 2, ch. 2005-196; s. 1, ch. 2006-246; s. 5, ch. 2009-108; s. 14, ch. 2010-24; s. 3, ch. 2011-103; s. 4, ch. 2013-35.

#### **1002.3105 Academically Challenging Curriculum to Enhance Learning (ACCEL) options.—**

##### **(1) ACCEL OPTIONS.—**

(a) Academically Challenging Curriculum to Enhance Learning (ACCEL) options are educational options that provide academically challenging curriculum or accelerated instruction to eligible public school students in kindergarten through grade 12.

(b) At a minimum, each school must offer the following ACCEL options: whole-grade and midyear promotion; subject-matter acceleration; virtual instruction in higher grade level subjects; and the Credit Acceleration Program under s. 1003.4295. Additional ACCEL options may include, but are not limited to, enriched science, technology, engineering, and mathematics coursework; enrichment programs; flexible grouping; advanced academic courses; combined classes; self-paced instruction; rigorous industry certifications that are articulated to college credit and approved pursuant to ss. 1003.492 and 1008.44; work-related internships or apprenticeships; curriculum compacting; advanced-content instruction; and telescoping curriculum.

##### **(2) ELIGIBILITY AND PROCEDURAL REQUIREMENTS.—**

(a) Principal determined eligibility requirements.—

1. Each principal must establish student eligibility requirements for virtual instruction in higher grade level subjects. Each principal must also establish student eligibility requirements for whole-grade promotion, midyear promotion, and subject-matter acceleration when the promotion or acceleration occurs within the principal's school.

2. If a school offers enriched STEM coursework, enrichment programs, flexible grouping, advanced academic courses, combined classes, self-paced instruction, curriculum compacting, advanced-content instruction, telescoping curriculum, or an alternative ACCEL option established by the principal, the principal must establish student eligibility requirements.

(b) School district determined eligibility and procedural requirements.—A school district must establish student eligibility requirements and procedural requirements for any whole-grade promotion, midyear promotion, or subject-matter acceleration that would result in a student attending a different school. Student eligibility requirements and procedural requirements established by

the school district must be included in the school district's comprehensive student progression plan under s. 1008.25.

(3) **STUDENT ELIGIBILITY CONSIDERATIONS.**—When establishing student eligibility requirements, principals and school districts must consider, at a minimum:

(a) The student's performance on a locally determined assessment, a statewide assessment, or a statewide, standardized assessment administered pursuant to s. 1008.22.

(b) The student's grade point average.

(c) The student's attendance and conduct record.

(d) Recommendations from one or more of the student's teachers in core-curricula courses as defined in s. 1003.01(14)(a)-(e).

(e) A recommendation from a certified school counselor if one is assigned to the school in which the student is enrolled.

(4) **ACCEL REQUIREMENTS.**—

(a) Each principal must inform parents and students of the ACCEL options available at the school and the student eligibility requirements for the ACCEL options established pursuant to paragraph (2)(a).

(b)1. Each principal must establish a process by which a parent may request student participation in whole-grade promotion, midyear promotion, and subject-matter acceleration when the promotion or acceleration occurs within the principal's school; virtual instruction in higher grade level subjects; or an alternative ACCEL option established by the principal. If the parent selects one of these ACCEL options and the student meets the eligibility requirements established by the principal pursuant to paragraph (2)(a), the student must be provided the opportunity to participate in the ACCEL option.

2. Each school district must establish a pro-

cess by which a parent may request student participation in whole-grade promotion, midyear promotion, or subject-matter acceleration that would result in a student attending a different school. If the parent selects one of these ACCEL options and the student meets the eligibility and procedural requirements set forth in the district's comprehensive student progression plan, as required under paragraph (2)(b), the student must be provided the opportunity to participate in the ACCEL option.

(c) If a student participates in an ACCEL option pursuant to the parental request under subparagraph (b)1., a performance contract must be executed by the student, the parent, and the principal. At a minimum, the performance contract must require compliance with:

1. Minimum student attendance requirements.

2. Minimum student conduct requirements.

3. ACCEL option requirements established by the principal, which may include participation in extracurricular activities, educational outings, field trips, interscholastic competitions, and other activities related to the ACCEL option selected.

(d) If a principal initiates a student's participation in an ACCEL option, the student's parent must be notified. A performance contract, pursuant to paragraph (c), is not required when a principal initiates participation but may be used at the discretion of the principal.

(5) **AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.**—A student who meets the requirements of s. 1003.4282(3)(a)-(e), earns three credits in electives, and earns a cumulative grade point average (GPA) of 2.0 on a 4.0 scale shall be awarded a standard high school diploma in a form prescribed by the State Board of Education.

History.—s. 1, ch. 2012-191; s. 4, ch. 2013-27; s. 3, ch. 2013-89.

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### 1002.33 Charter schools.—

(1) **AUTHORIZATION.**—Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. A charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (18) and (19), subparagraphs (20)(a)2., 4., 5., and 7., paragraph (20)(c), and s. 1003.03. A public school may not use the term charter in its name unless it has been approved under this section.

### (2) **GUIDING PRINCIPLES; PURPOSE.**—

(a) Charter schools in Florida shall be guided by the following principles:

1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.

2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.

3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year's worth of learning for every year spent in the charter school.

(b) Charter schools shall fulfill the following purposes:

1. Improve student learning and academic achievement.

2. Increase learning opportunities for all students, with special emphasis on low-performing

students and reading.

3. Encourage the use of innovative learning methods.

4. Require the measurement of learning outcomes.

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.

2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.

3. Expand the capacity of the public school system.

4. Mitigate the educational impact created by the development of new residential dwelling units.

5. Create new professional opportunities for teachers, including ownership of the learning program at the school site.

(3) APPLICATION FOR CHARTER STATUS.—

(a) An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.

(b) An application for a conversion charter school shall be made by the district school board, the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least 2 years prior to the application to convert. A public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to rules adopted by the State Board of Education. A district school board denying an application for a conversion charter school shall provide notice of denial to the applicants in writing within 10 days after the meeting at which the district school board denied the application. The notice must articulate in writing the specific reasons for denial and must provide documentation supporting those reasons. A private school, parochial school, or home education program shall not be eligible for charter school status.

(4) UNLAWFUL REPRISAL.—

(a) No district school board, or district school board employee who has control over personnel actions, shall take unlawful reprisal against another district school board employee because that employee is either directly or indirectly involved with an application to establish a charter school. As used in this subsection, the term “unlawful reprisal” means an action taken by a district school board or a school system employee against an employee who is directly or indirectly involved in a lawful applica-

tion to establish a charter school, which occurs as a direct result of that involvement, and which results in one or more of the following: disciplinary or corrective action; adverse transfer or reassignment, whether temporary or permanent; suspension, demotion, or dismissal; an unfavorable performance evaluation; a reduction in pay, benefits, or rewards; elimination of the employee’s position absent of a reduction in workforce as a result of lack of moneys or work; or other adverse significant changes in duties or responsibilities that are inconsistent with the employee’s salary or employment classification. The following procedures shall apply to an alleged unlawful reprisal that occurs as a consequence of an employee’s direct or indirect involvement with an application to establish a charter school:

1. Within 60 days after the date upon which a reprisal prohibited by this subsection is alleged to have occurred, an employee may file a complaint with the Department of Education.

2. Within 3 working days after receiving a complaint under this section, the Department of Education shall acknowledge receipt of the complaint and provide copies of the complaint and any other relevant preliminary information available to each of the other parties named in the complaint, which parties shall each acknowledge receipt of such copies to the complainant.

3. If the Department of Education determines that the complaint demonstrates reasonable cause to suspect that an unlawful reprisal has occurred, the Department of Education shall conduct an investigation to produce a fact-finding report.

4. Within 90 days after receiving the complaint, the Department of Education shall provide the district school superintendent of the complainant’s district and the complainant with a fact-finding report that may include recommendations to the parties or a proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

5. If the Department of Education determines that reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Department of Education shall terminate the investigation. Upon termination of any investigation, the Department of Education shall notify the complainant and the district school superintendent of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding.

6. The Department of Education shall either contract with the Division of Administrative Hear-

ings under s. 120.65, or otherwise provide for a complaint for which the Department of Education determines reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate, to be heard by a panel of impartial persons. Upon hearing the complaint, the panel shall make findings of fact and conclusions of law for a final decision by the Department of Education.

It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this section.

(b) In any action brought under this section for which it is determined reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, the relief shall include the following:

1. Reinstatement of the employee to the same position held before the unlawful reprisal was commenced, or to an equivalent position, or payment of reasonable front pay as alternative relief.
2. Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.
3. Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the unlawful reprisal.
4. Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.
5. Issuance of an injunction, if appropriate, by a court of competent jurisdiction.
6. Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome of the complaint, if it is determined that the action was not made in bad faith or for a wrongful purpose, and did not occur after a district school board's initiation of a personnel action against the employee that includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

(5) SPONSOR; DUTIES.—

(a) Sponsoring entities.—

1. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.

2. A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

(b) Sponsor duties.—

1.a. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

b. The sponsor shall monitor the revenues and expenditures of the charter school and perform the duties provided in s. 1002.345.

c. The sponsor may approve a charter for a

charter school before the applicant has identified space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds.

d. The sponsor shall not apply its policies to a charter school unless mutually agreed to by both the sponsor and the charter school. If the sponsor subsequently amends any agreed-upon sponsor policy, the version of the policy in effect at the time of the execution of the charter, or any subsequent modification thereof, shall remain in effect and the sponsor may not hold the charter school responsible for any provision of a newly revised policy until the revised policy is mutually agreed upon.

e. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

f. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

g. The sponsor shall not be liable for civil damages under state law for personal injury, property damage, or death resulting from an act or omission of an officer, employee, agent, or governing body of the charter school.

h. The sponsor shall not be liable for civil damages under state law for any employment actions taken by an officer, employee, agent, or governing body of the charter school.

i. The sponsor's duties to monitor the charter school shall not constitute the basis for a private cause of action.

j. The sponsor shall not impose additional reporting requirements on a charter school without providing reasonable and specific justification in writing to the charter school.

k. The sponsor shall submit an annual report to the Department of Education in a web-based format to be determined by the department.

(l) The report shall include the following information:

(A) The number of draft applications received on or before May 1 and each applicant's contact information.

(B) The number of final applications received on or before August 1 and each applicant's contact information.

(C) The date each application was approved, denied, or withdrawn.

(D) The date each final contract was executed.

(II) Beginning August 31, 2013, and each year thereafter, the sponsor shall submit to the department the information for the applications submitted the previous year.

(III) The department shall compile an annual report, by district, and post the report on its web-



site by November 1 of each year.

2. Immunity for the sponsor of a charter school under subparagraph 1. applies only with respect to acts or omissions not under the sponsor's direct authority as described in this section.

3. This paragraph does not waive a district school board's sovereign immunity.

4. A Florida College System institution may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. If a Florida College System institution operates an approved teacher preparation program under s. 1004.04 or s. 1004.85, the institution may operate no more than one charter school that serves students in kindergarten through grade 12. In kindergarten through grade 8, the charter school shall implement innovative blended learning instructional models in which, for a given course, a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace and in part at a supervised brick-and-mortar location away from home. A student in a blended learning course must be a full-time student of the charter school and receive the online instruction in a classroom setting at the charter school. District school boards shall cooperate with and assist the Florida College System institution on the charter application. Florida College System institution applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Florida College System institutions may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

5. A school district may enter into nonexclusive interlocal agreements with federal and state agencies, counties, municipalities, and other governmental entities that operate within the geographical borders of the school district to act on behalf of such governmental entities in the inspection, issuance, and other necessary activities for all necessary permits, licenses, and other permissions that a charter school needs in order for development, construction, or operation. A charter school may use, but may not be required to use, a school district for these services. The interlocal agreement must include, but need not be limited to, the identification of fees that charter schools will be charged for such services. The fees must consist of the governmental entity's fees plus a fee for the school district to recover no more than actual costs for providing such services. These services and fees are not included within the services to be provided pursuant to subsection (20).

(6) APPLICATION PROCESS AND REVIEW.—Char-

ter school applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

6. Contains additional information a sponsor may require, which shall be attached as an addendum to the charter school application described in this paragraph.

7. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).

(b) A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. A sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may not refuse to receive a charter school application submitted before August 1 and may receive an application submitted later than August 1 if it chooses. In order to facilitate greater collaboration in the application process, an applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft appli-

cation is timely submitted, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant shall then have until August 1 to resubmit a revised and final application. The sponsor may approve the draft application. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of a final application upon the promise of future payment of any kind. Before approving or denying any final application, the sponsor shall allow the applicant, upon receipt of written notification, at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, corrections of grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the final application.

1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.

3.a. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education.

b. An application submitted by a high-performing charter school identified pursuant to s. 1002.331 may be denied by the sponsor only if the sponsor demonstrates by clear and convincing evidence that:

(I) The application does not materially com-

ply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

Material noncompliance is a failure to follow requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant's high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools.

c. If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons, based upon the criteria in sub-subparagraph b., supporting its denial of the application and must provide the letter of denial and supporting documentation to the applicant and to the Department of Education. The applicant may appeal the sponsor's denial of the application directly to the State Board of Education pursuant to sub-subparagraph (c)3.b.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless the sponsor allows a waiver of this subparagraph for good cause.

(c)1. An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal.



Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board at least 7 calendar days before the date on which the appeal is to be heard. An appeal regarding the denial of an application submitted by a high-performing charter school pursuant to s. 1002.331 shall be conducted by the State Board of Education in accordance with this paragraph, except that the commission shall not convene to make recommendations regarding the appeal. However, the Commissioner of Education shall review the appeal and make a recommendation to the state board.

2. The Charter School Appeal Commission or, in the case of an appeal regarding an application submitted by a high-performing charter school, the State Board of Education may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant shall have 15 calendar days after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

- (I) The application does not materially comply with the requirements in paragraph (a);
- (II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (9)(a)-(f);
- (III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;
- (IV) The applicant has made a material

misrepresentation or false statement or concealed an essential or material fact during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(d) The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint a number of members to the Charter School Appeal Commission sufficient to ensure that no potential conflict of interest exists for any commission appeal decision. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. Of the members hearing the appeal, one-half must represent currently operating charter schools and one-half must represent sponsors. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing and adjusting business plans and accounting for costs and income. Training and technical assistance shall also address, at a minimum, state and federal grant and student performance accountability reporting requirements and provide assistance in identifying and applying for the types and amounts of state and federal financial assistance the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the department. In such case, the sponsor may not require the charter school applicant to attend the training within 30 calendar days before the first day of classes at the charter school. The training must include instruction in accurate financial planning and good business practices. If the applicant is a management company or a nonprofit organization, the charter school principal and the chief financial officer or his or her equivalent must also partici-

pate in the training. A sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training described in this subparagraph more than once.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor has 30 days after approval of the application to provide an initial proposed charter contract to the charter school. The applicant and the sponsor have 40 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days prior to the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge has final order authority to rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Next Generation Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter

schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

6. A method for resolving conflicts between the governing board of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall pro-

vide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 4 or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location. The sponsor may not require a charter school to have a certificate of occupancy or a temporary certificate of occupancy for such a facility earlier than 15 calendar days before the first day of school.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person

employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term “relative” means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(b)1. A charter may be renewed provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 3 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of “A” or “B” pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school’s governing board and the approval of both parties to the agreement. Modification may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board and physically located on the same campus, regardless of the renewal cycle.

(d)1. Each charter school’s governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes. The representative must reside in the school district in which the charter school is located and may be a governing board member, charter school employee, or individual contracted to represent the governing board. If the governing board oversees multiple charter schools

in the same school district, the governing board must appoint a separate individual representative for each charter school in the district. The representative's contact information must be provided annually in writing to parents and posted prominently on the charter school's website if a website is maintained by the school. The sponsor may not require that governing board members reside in the school district in which the charter school is located if the charter school complies with this paragraph.

2. Each charter school's governing board must hold at least two public meetings per school year in the school district. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her equivalent, must be physically present at each meeting.

**(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—**

(a) The sponsor shall make student academic achievement for all students the most important factor when determining whether to renew or terminate the charter. The sponsor may also choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

(b) At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing board of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing board may, within 14 calendar days after receiving the notice, request a hearing. The hearing shall be conducted at the sponsor's election in accordance with one of the following procedures:

1. A direct hearing conducted by the sponsor within 60 days after receipt of the request for a hearing. The hearing shall be conducted in accordance with ss. 120.569 and 120.57. The sponsor shall decide upon nonrenewal or termination by a majority vote. The sponsor's decision shall be a final order; or

2. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings. The hearing shall be conducted within 60 days after receipt of the request for a hearing and in accordance with chapter 120. The administrative

law judge's recommended order shall be submitted to the sponsor. A majority vote by the sponsor shall be required to adopt or modify the administrative law judge's recommended order. The sponsor shall issue a final order.

(c) The final order shall state the specific reasons for the sponsor's decision. The sponsor shall provide its final order to the charter school's governing board and the Department of Education no later than 10 calendar days after its issuance. The charter school's governing board may, within 30 calendar days after receiving the sponsor's final order, appeal the decision pursuant to s. 120.68.

(d) A charter may be terminated immediately if the sponsor sets forth in writing the particular facts and circumstances indicating that an immediate and serious danger to the health, safety, or welfare of the charter school's students exists. The sponsor's determination is subject to the procedures set forth in paragraphs (b) and (c), except that the hearing may take place after the charter has been terminated. The sponsor shall notify in writing the charter school's governing board, the charter school principal, and the department if a charter is terminated immediately. The sponsor shall clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination when appropriate. Upon receiving written notice from the sponsor, the charter school's governing board has 10 calendar days to request a hearing. A requested hearing must be expedited and the final order must be issued within 60 days after the date of request. The sponsor shall assume operation of the charter school throughout the pendency of the hearing under paragraphs (b) and (c) unless the continued operation of the charter school would materially threaten the health, safety, or welfare of the students. Failure by the sponsor to assume and continue operation of the charter school shall result in the awarding of reasonable costs and attorney's fees to the charter school if the charter school prevails on appeal.

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds, except for capital outlay funds and federal charter school program grant funds, from the charter school shall revert to the sponsor. Capital outlay funds provided pursuant to s. 1013.62 and federal charter school program grant funds that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances.



Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(9) CHARTER SCHOOL REQUIREMENTS.—

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the anti-discrimination provisions of s. 1000.05.

(g)1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or

b. At the discretion of the charter school's governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district

reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

3. A charter school shall provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet.

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

(h) The governing board of the charter school shall annually adopt and maintain an operating budget.

(i) The governing body of the charter school shall exercise continuing oversight over charter school operations.

(j) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

(k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative

and already in the possession of the department. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.

2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.

3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.

4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

- (l) A charter school shall not levy taxes or issue bonds secured by tax revenues.

- (m) A charter school shall provide instruction for at least the number of days required by law for other public schools and may provide instruction for additional days.

- (n)1. The director and a representative of the governing board of a charter school that has earned a grade of "D" or "F" pursuant to s. 1008.34 shall appear before the sponsor to present information concerning each contract component having noted deficiencies. The director and a representative of the governing board shall submit to the sponsor for approval a school improvement plan to raise student performance. Upon approval by the sponsor, the charter school shall begin implementation of the school improvement plan. The department shall offer technical assistance and training to the charter school and its governing board and establish guidelines for developing, submitting, and approving such plans.

- 2.a. If a charter school earns three consecutive grades of "D," two consecutive grades of "D" followed by a grade of "F," or two nonconsecutive grades of "F" within a 3-year period, the charter school governing board shall choose one of the following corrective actions:

- (I) Contract for educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule;

- (II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;

- (III) Reorganize the school under a new director or principal who is authorized to hire new staff; or

- (IV) Voluntarily close the charter school.

- b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of "D," a grade of "F" following two consecutive grades of "D," or a second nonconsecutive grade of "F" within a 3-year period.

- c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" is subject to subparagraph 4.

- d. A charter school is no longer required to implement a corrective action if it improves by at least one letter grade. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.

- e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of "D" or "F" that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of "F" unless:

- a. The charter school is established to turn around the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools



shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of "F" in the year before the charter school opened and the charter school earns at least a grade of "D" in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 15 days after the department's official release of school grades. The state board may waive termination if the charter school demonstrates that the Learning Gains of its students on statewide assessments are comparable to or better than the Learning Gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

5. The director and a representative of the governing board of a graded charter school that has implemented a school improvement plan under this paragraph shall appear before the sponsor at least once a year to present information regarding the progress of intervention and support strategies implemented by the school pursuant to the school improvement plan and corrective actions, if applicable. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

(o)1. Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school may not expend more than \$10,000 per expenditure without prior written approval from the sponsor unless such expenditure was included within the annual budget submitted to the sponsor pursuant to the charter contract, is for reasonable attorney fees and costs during the pendency of any appeal, or is for reasonable fees and costs to conduct an independent audit.

2. An independent audit shall be completed within 30 days after notice of nonrenewal, closure, or termination to account for all public funds and assets.

3. A provision in a charter contract that contains an acceleration clause requiring the expenditure of funds based upon closure or upon notification of nonrenewal or termination is void and unenforceable.

4. A charter school may not enter into a contract with an employee that exceeds the term of

the school's charter contract with its sponsor.

5. A violation of this paragraph triggers a reversion or clawback power by the sponsor allowing for collection of an amount equal to or less than the accelerated amount that exceeds normal expenditures. The reversion or clawback plus legal fees and costs shall be levied against the person or entity receiving the accelerated amount.

(p) Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school's academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school's annual budget and its annual independent fiscal audit; the school's grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.

(10) ELIGIBLE STUDENTS. —

(a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located; however, in the case of a charter lab school, the charter lab school shall be open to any student eligible to attend the lab school as provided in s. 1002.32 or who resides in the school district in which the charter lab school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause. Good cause shall include, but is not limited to, geographic proximity to a charter school in a neighboring school district.

(b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. The district school board shall consult and negotiate with the conversion charter school every 3 years to determine whether realignment of the conversion charter school's attendance zone is appropriate in order to ensure that students residing closest to the charter school are provided with an enrollment preference.

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.
2. Students who are the children of a member of the governing board of the charter school.
3. Students who are the children of an employee of the charter school.
4. Students who are the children of:
  - a. An employee of the business partner of a

charter school-in-the-workplace established under paragraph (15)(b) or a resident of the municipality in which such charter school is located; or

b. A resident of a municipality that operates a charter school-in-a-municipality pursuant to paragraph (15)(c).

5. Students who have successfully completed a voluntary prekindergarten education program under ss. 1002.51-1002.79 provided by the charter school or the charter school's governing board during the previous year.

6. Students who are the children of an active duty member of any branch of the United States Armed Forces.

(e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.

2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.

3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (15).

4. Students residing within a reasonable distance of the charter school, as described in paragraph (20)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

7. Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$10 million to be used as a charter school for the development. Students living in the development shall be entitled to 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions, as described in subparagraph 4. The remainder of the student stations shall be filled in accordance with subparagraph 4.

(f) Students with disabilities and students

served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(g) A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection unless the charter school is designated as a high-performing charter school pursuant to s. 1002.331. A sponsor may not require a charter school to waive the provisions of s. 1002.331 or require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with s. 1002.331(2) as a condition of approval or renewal of a charter.

(i) The capacity of a high-performing charter school identified pursuant to s. 1002.331 shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase. A sponsor may not require a charter school to identify the names of students to be enrolled or to enroll those students before the start of the school year as a condition of approval or renewal of a charter.

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to s. 1006.15(3)(d).

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

(c) The employees of a conversion charter school shall remain public employees for all purposes, unless such employees choose not to do so.

(d) The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

(e) Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While employed by the charter school and on leave that is approved by the district school board, the employee may retain seniority accrued in that

school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing. School districts shall not require resignations of teachers desiring to teach in a charter school. This paragraph shall not prohibit a district school board from approving alternative leave arrangements consistent with chapter 1012.

(f) Teachers employed by or under contract to a charter school shall be certified as required by chapter 1012. A charter school governing board may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in chapter 1012, and as provided by State Board of Education rule for charter school governing boards. A charter school may not knowingly employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. A charter school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare or safety, or who has been dismissed for just cause by any school district with respect to child welfare or safety. The qualifications of teachers shall be disclosed to parents.

(g)1. A charter school shall employ or contract with employees who have undergone background screening as provided in s. 1012.32. Members of the governing board of the charter school shall also undergo background screening in a manner similar to that provided in s. 1012.32.

2. A charter school shall disqualify instructional personnel and school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. 1012.315.

3. The governing board of a charter school shall adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A charter school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termina-

tion, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

4. Before employing instructional personnel or school administrators in any position that requires direct contact with students, a charter school shall conduct employment history checks of each of the personnel's or administrators' previous employers, screen the instructional personnel or school administrators through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the charter school must document efforts to contact the employer.

5. The sponsor of a charter school that knowingly fails to comply with this paragraph shall terminate the charter under subsection (8).

(h) For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28.

(i) A charter school shall organize as, or be operated by, a nonprofit organization. A charter school may be operated by a municipality or other public entity as provided for by law. As such, the charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a "covered group" under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

(13) CHARTER SCHOOL COOPERATIVES.—Charter schools may enter into cooperative agreements to form charter school cooperative organizations that may provide the following services: charter school planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.

(14) CHARTER SCHOOL FINANCIAL ARRANGE-

MENTS; INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR TAXING POWER NOT TO BE PLEDGED.—Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in this section from a source other than the state or a school district shall indemnify the state and the school district from any and all liability, including, but not limited to, financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the school district but are obligations of the charter school authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the school district shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a district school board pursuant to this section.

(15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(a) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, and to offset the high costs for educational facilities construction, the Legislature intends to encourage the formation of business partnership schools or satellite learning centers and municipal-operated schools through charter school status.

(b) A charter school-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of employees of that business or corporation who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public

school.

(d) As used in this subsection, the terms “business partner” or “municipality” may include more than one business or municipality to form a charter school-in-the-workplace or charter school-in-a-municipality.

(16) EXEMPTION FROM STATUTES.—

(a) A charter school shall operate in accordance with its charter and shall be exempt from all statutes in chapters 1000-1013. However, a charter school shall be in compliance with the following statutes in chapters 1000-1013:

1. Those statutes specifically applying to charter schools, including this section.
2. Those statutes pertaining to the student assessment program and school grading system.
3. Those statutes pertaining to the provision of services to students with disabilities.
4. Those statutes pertaining to civil rights, including s. 1000.05, relating to discrimination.
5. Those statutes pertaining to student health, safety, and welfare.

(b) Additionally, a charter school shall be in compliance with the following statutes:

1. Section 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.
2. Chapter 119, relating to public records.
3. Section 1003.03, relating to the maximum class size, except that the calculation for compliance pursuant to s. 1003.03 shall be the average at the school level.
4. Section 1012.22(1)(c), relating to compensation and salary schedules.
5. Section 1012.33(5), relating to workforce reductions.
6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011.
7. Section 1012.34, relating to the substantive requirements for performance evaluations for instructional personnel and school administrators.

(c) For purposes of subparagraphs (b)4.-7.:

1. The duties assigned to a district school superintendent apply to charter school administrative personnel, as defined in s. 1012.01(3)(a) and (b), and the charter school governing board shall designate at least one administrative person to be responsible for such duties.
2. The duties assigned to a district school board apply to a charter school governing board.
3. A charter school may hire instructional personnel and other employees on an at-will basis.
4. Notwithstanding any provision to the contrary, instructional personnel and other employees on contract may be suspended or dismissed any time during the term of the contract without cause.

(17) FUNDING.—Students enrolled in a charter school, regardless of the sponsorship, shall

be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment to the sponsor as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation and the Florida digital classrooms allocation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment. Unless otherwise mutually agreed to by the charter school and its sponsor, and consistent with state and federal rules and regulations governing the use and disbursement of federal funds, the sponsor shall reimburse the charter school on a monthly basis for all invoices submit-

ted by the charter school for federal funds available to the sponsor for the benefit of the charter school, the charter school's students, and the charter school's students as public school students in the school district. Such federal funds include, but are not limited to, Title I, Title II, and Individuals with Disabilities Education Act (IDEA) funds. To receive timely reimbursement for an invoice, the charter school must submit the invoice to the sponsor at least 30 days before the monthly date of reimbursement set by the sponsor. In order to be reimbursed, any expenditures made by the charter school must comply with all applicable state rules and federal regulations, including, but not limited to, the applicable federal Office of Management and Budget Circulars; the federal Education Department General Administrative Regulations; and program-specific statutes, rules, and regulations. Such funds may not be made available to the charter school until a plan is submitted to the sponsor for approval of the use of the funds in accordance with applicable federal requirements. The sponsor has 30 days to review and approve any plan submitted pursuant to this paragraph.

(d) Charter schools shall be included by the Department of Education and the district school board in requests for federal stimulus funds in the same manner as district school board-operated public schools, including Title I and IDEA funds and shall be entitled to receive such funds. Charter schools are eligible to participate in federal competitive grants that are available as part of the federal stimulus funds.

(e) District school boards shall make timely and efficient payment and reimbursement to charter schools, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued.

(f) Funding for a virtual charter school shall be as provided in s. 1002.45(7).

(18) FACILITIES.—

(a) A startup charter school shall utilize



facilities which comply with the Florida Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. Conversion charter schools shall utilize facilities that comply with the State Requirements for Educational Facilities provided that the school district and the charter school have entered into a mutual management plan for the reasonable maintenance of such facilities. The mutual management plan shall contain a provision by which the district school board agrees to maintain charter school facilities in the same manner as its other public schools within the district. Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37. The local governing authority shall not adopt or impose any local building requirements or site-development restrictions, such as parking and site-size criteria, that are addressed by and more stringent than those found in the State Requirements for Educational Facilities of the Florida Building Code. Beginning July 1, 2011, a local governing authority must treat charter schools equitably in comparison to similar requirements, restrictions, and processes imposed upon public schools that are not charter schools. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occupancy or use shall be the local municipality or, if in an unincorporated area, the county governing authority.

(b) A charter school shall use facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.208, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983. Library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80; fees for building and occupational licenses; impact fees or exactions; service availability fees; and assessments for special benefits.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from

the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The local school district retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the school district subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the school district. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes. The owner of property planned or approved for new residential dwelling units and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the expected occupancy of the residential units. The application for use of educational impact fees shall include an approved charter school application. To assist the school district in forecasting student station needs, the entity levying the impact fees shall notify the affected district of any agreements it has approved for the purpose of mitigating student station impact from the new residential dwelling units.

(g) Each school district shall annually provide to the Department of Education as part of its 5-year work plan the number of existing vacant classrooms in each school that the district does not intend to use or does not project will be needed for



educational purposes for the following school year. The department may recommend that a district make such space available to an appropriate charter school.

(19) CAPITAL OUTLAY FUNDING.—Charter schools are eligible for capital outlay funds pursuant to s. 1013.62. Capital outlay funds authorized in ss. 1011.71(2) and 1013.62 which have been shared with a charter school-in-the-workplace prior to July 1, 2010, are deemed to have met the authorized expenditure requirements for such funds.

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students, except that when 75 percent or more of the students enrolled in the charter school are exceptional students as defined in s. 1003.01(3), the 5 percent of those available funds shall be calculated based on unweighted full-time equivalent students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s.

1013.62(2).

3. For high-performing charter schools, as defined in ch. 2011-232, a sponsor may withhold a total administrative fee of up to 2 percent for enrollment up to and including 250 students per school.

4. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

- a. Includes both conversion charter schools and nonconversion charter schools;
- b. Has all schools located in the same county;
- c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- d. Has the same governing board; and
- e. Does not contract with a for-profit service provider for management of school operations.

5. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 4. may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2).

6. For a high-performing charter school system that also meets the requirements in subparagraph 4., a sponsor may withhold a 2-percent administrative fee for enrollments up to and including 500 students per system.

7. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

8. The sponsor of a virtual charter school may withhold a fee of up to 5 percent. The funds shall be used to cover the cost of services provided under subparagraph 1. and implementation of the school district's digital classrooms plan pursuant to s. 1011.62.

(b) If goods and services are made available to the charter school through the contract with the school district, they shall be provided to the charter school at a rate no greater than the district's actual cost unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission. To maximize the use of state funds, school districts shall allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of subpart I.E. of chapter

1006 and s. 1012.45. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or parents. The charter school and the sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

**(21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—**

(a) The Department of Education shall provide information to the public, directly and through sponsors, on how to form and operate a charter school and how to enroll in a charter school once it is created. This information shall include a model application form, standard charter contract, standard evaluation instrument, and standard charter renewal contract, which shall include the information specified in subsection (7) and shall be developed by consulting and negotiating with both school districts and charter schools before implementation. The charter and charter renewal contracts shall be used by charter school sponsors.

(b)1. The Department of Education shall report to each charter school receiving a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to s. 1008.341 the school's student assessment data.

2. The charter school shall report the information in subparagraph 1. to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the district in which the charter school is located, and the governing board of the charter school. This paragraph does not abrogate the provisions of s. 1002.22, relating to student records, or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

3.a. Pursuant to this paragraph, the Department of Education shall compare the charter school student performance data for each charter school in subparagraph 1. with the student performance data in traditional public schools in the district in which the charter school is located and other charter schools in the state. For alternative charter schools, the department shall compare the student performance data described in this paragraph with all alternative schools in the state. The comparative data shall be provided by the following grade groupings:

- (I) Grades 3 through 5;
- (II) Grades 6 through 8; and
- (III) Grades 9 through 11.

b. Each charter school shall provide the information specified in this paragraph on its Internet website and also provide notice to the public at large in a manner provided by the rules of the State Board of Education. The State Board of Education shall adopt rules to administer the notice

requirements of this subparagraph pursuant to ss. 120.536(1) and 120.54. The website shall include, through links or actual content, other information related to school performance.

**(22) FACILITIES SHARED BY CHARTER SCHOOLS.—**

(a) If a charter school moves out of a facility that is shared with another charter school having a separate Master School Identification Number, the charter school must provide for an audit of all equipment, educational materials and supplies, curriculum materials, and other items purchased or developed with federal charter school program grant funds, and such items must be transferred to the charter school's new location. The audit report must be submitted to the Department of Education within 60 days after completion.

(b) A charter school may not transfer an enrolled student to another charter school having a separate Master School Identification Number without first obtaining the written approval of the student's parent.

**(23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—**Upon receipt of the annual report required by paragraph (9)(k), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the Governor, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program, versus comparable public school students in the district as determined by the statewide assessment program currently administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

**(24) RESTRICTION ON EMPLOYMENT OF RELATIVES.—**

(a) This subsection applies to charter school personnel in a charter school operated by a private entity. As used in this subsection, the term:

1. "Charter school personnel" means a charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority and in whom is vested the authority, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in a charter school, including the authority as a member of a governing body of a charter school to vote on the appointment, employment, promotion, or advancement of individuals.

2. "Relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, moth-

er-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) Charter school personnel may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the charter school in which the personnel are serving or over which the personnel exercises jurisdiction or control any individual who is a relative. An individual may not be appointed, employed, promoted, or advanced in or to a position in a charter school if such appointment, employment, promotion, or advancement has been advocated by charter school personnel who serve in or exercise jurisdiction or control over the charter school and who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.

(c) The approval of budgets does not constitute “jurisdiction or control” for the purposes of this subsection.

Charter school personnel in schools operated by a municipality or other public entity are subject to s. 112.3135.

(25) **LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER SCHOOL SYSTEMS.**—A charter school system’s governing board shall be designated a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district, if the governing board of the charter school system has adopted and filed a resolution with its sponsoring district school board and the Department of Education in which the governing board of the charter school system accepts the full responsibility for all local education agency requirements and the charter school system meets all of the following:

(a) Includes both conversion charter schools and nonconversion charter schools;

(b) Has all schools located in the same county;

(c) Has a total enrollment exceeding the total enrollment of at least one school district in the state;

(d) Has the same governing board; and

(e) Does not contract with a for-profit service provider for management of school operations.

Such designation does not apply to other provisions unless specifically provided in law.

(26) **STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.**—

(a) A member of a governing board of a charter school, including a charter school operated by a

private entity, is subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

(b) A member of a governing board of a charter school operated by a municipality or other public entity is subject to s. 112.3145, which relates to the disclosure of financial interests.

(c) An employee of the charter school, or his or her spouse, or an employee of a charter management organization, or his or her spouse, may not be a member of the governing board of the charter school.

(27) **MILITARY INSTALLATIONS.**—

(a) The Legislature finds that military families face unique challenges due to the highly mobile nature of military service. Among the many challenges that military families face is providing a high-quality education for their children without disruption. The state has a compelling interest in assisting the development and enhancement of learning opportunities for military children and addressing their unique needs.

(b) It is the intent of the Legislature that a framework be established to address the needs of military children who, along with their families, face unique challenges due to the highly mobile nature of military service. In establishing this framework, military installation commanders are encouraged to collaboratively work with the Commissioner of Education to increase military family student achievement, which may include the establishment of charter schools on military installations. Although the State Board of Education, through the Commissioner of Education, shall supervise this collaboration, the applicable school district shall operate and maintain control over any school that is established on the military installation.

(28) **RULEMAKING.**—The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute. The State Board of Education shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement a charter model application form, standard evaluation instrument, and standard charter and charter renewal contracts in accordance with this section.

History.—s. 98, ch. 2002-387; s. 23, ch. 2003-391; s. 1, ch. 2003-393; ss. 35, 78, ch. 2004-41; s. 3, ch. 2004-295; s. 1, ch. 2004-354; s. 1, ch. 2006-190; s. 2, ch. 2006-302; s. 5, ch. 2007-234; s. 14, ch. 2008-108; s. 4, ch. 2008-142; s. 1, ch. 2008-204; s. 7, ch. 2009-214; s. 24, ch. 2010-70; s. 6, ch. 2010-154; s. 6, ch. 2011-1; s. 27, ch. 2011-5; s. 13, ch. 2011-37; s. 8, ch. 2011-55; s. 2, ch. 2011-137; ss. 3, 5, ch. 2011-232; s. 93, ch. 2012-5; s. 6, ch. 2012-133; s. 2, ch. 2012-194; s. 5, ch. 2013-27; s. 42, ch. 2013-35; s. 156, ch. 2013-183; s. 2, ch. 2013-236; ss. 1, 2, ch. 2013-250; s. 35, ch. 2014-1; s. 3, ch. 2014-23; s. 24, ch. 2014-39; s. 7, ch. 2014-56.

**1002.36 Florida School for the Deaf and the Blind.**—

(1) **RESPONSIBILITIES.**—The Florida School for

the Deaf and the Blind, located in St. Johns County, is a state-supported residential public school for hearing-impaired and visually impaired students

in preschool through 12th grade. The school is a component of the delivery of public education within Florida's K-20 education system and shall be funded through the Department of Education. The school shall provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Unless otherwise provided by law, the school shall comply with all laws and rules applicable to state agencies. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and to district school boards upon request. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the William L. Boyd, IV, Florida Resident Access Grant Program as provided in s. 1009.89.

(2) **MISSION.**—The mission of the Florida School for the Deaf and the Blind is to utilize all available talent, energy, and resources to provide free appropriate public education for eligible sensory-impaired students of Florida. As a school of academic excellence, the school shall strive to provide students an opportunity to access education services in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent lifelong learners. The school shall provide outreach services that include collaboration with district school boards and shall encourage input from students, staff, parents, and the community. As a diverse organization, the school shall foster respect and understanding for each individual.

(3) **AUDITS.**—The Auditor General shall conduct audits of the accounts and records of the Florida School for the Deaf and the Blind as provided in s. 11.45. The Department of Education's Inspector General is authorized to conduct investigations at the school as provided in s. 1001.20(4)(e).

(4) **BOARD OF TRUSTEES.**—

(a) There is hereby created a Board of Trustees for the Florida School for the Deaf and the Blind which shall consist of seven members. Of these seven members, one appointee shall be a blind person and one appointee shall be a deaf person. Each member shall have been a resident of the state for a period of at least 10 years. Their terms of office shall be 4 years. The appointment of the trustees shall be by the Governor with the confirmation of the Senate. The Governor may remove any member for cause and shall fill all vacancies that occur.

(b) The board of trustees shall elect a chair annually. The trustees shall be reimbursed for travel expenses as provided in s. 112.061, the accounts of which shall be paid by the Chief Financial Officer upon itemized vouchers duly approved by the chair.

(c) The board of trustees has authority to

adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law relating to operation of the Florida School for the Deaf and the Blind. Such rules shall be submitted to the State Board of Education for approval or disapproval. After a rule is approved by the State Board of Education, the rule shall be filed immediately with the Department of State. The board of trustees shall act at all times in conjunction with the rules of the State Board of Education.

(d) The board of trustees is a body corporate and shall have a corporate seal. Unless otherwise provided by law, all actions of the board of trustees shall be consistent with all laws and rules applicable to state agencies. Title to any gift, donation, or bequest received by the board of trustees pursuant to subparagraph (e)11. shall vest in the board of trustees. Title to all other property and other assets of the Florida School for the Deaf and the Blind shall vest in the State Board of Education, but the board of trustees shall have complete jurisdiction over the management of the school.

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other employees and remove the same as in its judgment may be best and fix their compensation.

2. Procure professional services, such as medical, mental health, architectural, and engineering.

3. Procure legal services without the prior written approval of the Attorney General.

4. Determine eligibility of students and procedure for admission.

5. Provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the health and comfort of the students without cost to their parents, except that the board of trustees may set tuition and other fees for nonresidents.

6. Provide for the proper keeping of accounts and records and for budgeting of funds.

7. Enter into contracts.

8. Sue and be sued.

9. Secure public liability insurance.

10. Do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.

11. Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. If the bill of sale, will, trust indenture, deed, or other legal conveyance specifies terms and condi-

tions concerning the use of such money or property, the board of trustees shall observe such terms and conditions.

12. Deposit outside the State Treasury such moneys as are received as gifts, donations, or bequests and may disburse and expend such moneys, upon its own warrant, for the use and benefit of the Florida School for the Deaf and the Blind and its students, as the board of trustees deems to be in the best interest of the school and its students. Such money or property does not constitute and may not be considered a part of any legislative appropriation.

13. Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

14. Invest such moneys in securities enumerated under s. 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

15. After receiving approval from the Administration Commission, exercise the power of eminent domain in the manner provided in chapter 73 or chapter 74.

(f) The board of trustees shall:

1. Prepare and submit legislative budget requests for operations and fixed capital outlay, in accordance with chapter 216 and ss. 1011.56 and 1013.60, to the Department of Education for review and approval. The department must analyze the amount requested for fixed capital outlay to determine if the request is consistent with the school's campus master plan, educational plant survey, and facilities master plan. Projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

2. Approve and administer an annual operating budget in accordance with ss. 1011.56 and 1011.57.

3. Require all funds received other than gifts, donations, bequests, funds raised by or belonging to student clubs or student organizations, and funds held for specific students or in accounts for individual students to be deposited in the State Treasury and expended as authorized in the General Appropriations Act.

4. Require all purchases to be in accordance with the provisions of chapter 287 except for purchases made with funds received as gifts, donations, or bequests; funds raised by or belonging to student clubs or student organizations; or funds held for specific students or in accounts for individual students.

5. Administer and maintain personnel programs for all employees of the board of trustees

and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 110, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

6. Give preference in appointment and retention in positions of employment as provided within s. 295.07(1).

7. Ensure that the Florida School for the Deaf and the Blind complies with s. 1013.351 concerning the coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

8. Ensure that the Florida School for the Deaf and the Blind complies with s. 112.061 concerning per diem and travel expenses of public officers, employees, and authorized persons with respect to all funds other than funds received as gifts, donations, or bequests; funds raised by or belonging to student clubs or student organizations; or funds held for specific students or in accounts for individual students.

9. Adopt a master plan which specifies the mission and objectives of the Florida School for the Deaf and the Blind. The plan shall include, but not be limited to, procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan shall be for a period of 5 years and shall be reviewed for needed modifications every 2 years. The board of trustees shall submit the initial plan and subsequent modifications to the Speaker of the House of Representatives and the President of the Senate.

10. Designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to the late Senator Verle Allyn Pope.

(5) **STUDENT AND EMPLOYEE PERSONNEL RECORDS.**—The Board of Trustees for the Florida School for the Deaf and the Blind shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 1002.22. Employee personnel records shall be subject to the provisions of s. 1012.31.

(6) **LEGAL SERVICES.**—The Board of Trustees for the Florida School for the Deaf and the Blind may provide legal services for officers and employees of the board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities. The board of trustees may provide for reimbursement of reasonable expenses for legal services for officers and employees of said board of trustees who are charged with civil



or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities upon successful defense by the officer or employee. However, in any case in which the officer or employee pleads guilty or nolo contendere or is found guilty of any such action, the officer or employee shall reimburse the board of trustees for any legal services that the board of trustees may have supplied pursuant to this section. The board of trustees may also reimburse an officer or employee thereof for any judgment that may be entered against him or her in a civil action arising out of and in the course of the performance of his or her assigned duties and responsibilities. Each expenditure by the board of trustees for legal defense of an officer or employee, or for reimbursement pursuant to this section, shall be made at a public meeting with notice pursuant to s. 120.525(1). The providing of such legal services or reimbursement under the conditions described in this subsection is declared to be a school purpose for which school funds may be expended.

(7) PERSONNEL SCREENING.—

(a) The Board of Trustees of the Florida School for the Deaf and the Blind shall, because of the special trust or responsibility of employees of the school, require all employees and applicants for employment to undergo personnel screening and security background investigations as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, as a condition of employment and continued employment. The cost of a personnel screening and security background investigation for an employee of the school shall be paid by the school. The cost of such a screening and investigation for an applicant for employment may be paid by the school.

(b) As a prerequisite for initial and continuing employment at the Florida School for the Deaf and the Blind:

1. The applicant or employee shall submit to the Florida School for the Deaf and the Blind a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the Florida School for the Deaf and the Blind who is trained to take fingerprints. The Florida School for the Deaf and the Blind shall submit the fingerprints to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing.

2.a. The applicant or employee shall attest to the minimum standards for good moral character as contained in chapter 435, using the level 2 standards set forth in that chapter under penalty of perjury.

b. New personnel shall be on a probationary status pending a determination of compliance with such minimum standards for good moral character. This paragraph is in addition to any probationary status provided for by Florida law or Florida School for the Deaf and the Blind rules or collective bar-

gaining contracts.

3. The Florida School for the Deaf and the Blind shall review the record of the applicant or employee with respect to the crimes contained in s. 435.04 and shall notify the applicant or employee of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the applicant or employee, upon request of the Florida School for the Deaf and the Blind, to obtain and supply within 30 days the missing disposition information to the Florida School for the Deaf and the Blind. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification of an applicant and automatic termination of an employee.

4. After an initial personnel screening and security background investigation, written notification shall be given to the affected employee within a reasonable time prior to any subsequent screening and investigation.

(c) The Florida School for the Deaf and the Blind may grant exemptions from disqualification as provided in s. 435.07.

(d) The Florida School for the Deaf and the Blind may not use the criminal records, private investigator findings, or information reference checks obtained by the school pursuant to this section for any purpose other than determining if a person meets the minimum standards for good moral character for personnel employed by the school. The criminal records, private investigator findings, and information from reference checks obtained by the Florida School for the Deaf and the Blind for determining the moral character of employees of the school are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.

2. Use the criminal records, private investigator findings, or information from reference checks obtained under this section or information obtained from such records or findings for purposes other than screening for employment or release such information or records to persons for purposes other than screening for employment.

(f) For the purpose of teacher certification, the Florida School for the Deaf and the Blind shall be considered a school district.

(g) For purposes of protecting the health, safety, or welfare of students, the Florida School for the Deaf and the Blind is considered a school



district and must, except as otherwise provided in this section, comply with ss. 1001.03, 1001.42, 1001.51, 1006.061, 1012.27, 1012.315, 1012.32, 1012.33, 1012.56, 1012.795, and 1012.796.

(8) **CAMPUS POLICE.—**

(a) The Board of Trustees for the Florida School for the Deaf and the Blind is permitted and empowered to employ police officers for the school, who must be designated Florida School for the Deaf and the Blind campus police.

(b) Each Florida School for the Deaf and the Blind campus police officer is a law enforcement officer of the state and a conservator of the peace who has the authority to arrest, in accordance with the laws of this state, any person for a violation of state law or applicable county or municipal ordinance if that violation occurs on or in any property or facilities of the school. A campus police officer may also arrest a person off campus for a violation committed on campus after a hot pursuit of that person which began on campus. A campus police officer shall have full authority to bear arms in the performance of the officer's duties and carry out a search pursuant to a search warrant on the campus. Florida School for the Deaf and the Blind campus police, upon request of the sheriff or local police authority, may serve subpoenas or other legal process and may make arrests of persons against whom arrest warrants have been issued or against whom charges have been made for violations of federal or state laws or county or municipal ordinances. Campus police officers shall have authority to enforce traffic laws within the boundaries of the campus in accordance with s. 316.640.

(c) The campus police shall promptly deliver all persons arrested and charged with felonies to the sheriff of the county within which the school is located and all persons arrested and charged with misdemeanors to the applicable authority as provided by law, but otherwise to the sheriff of the county in which the school is located.

(d) The campus police must meet the minimum standards established by the Criminal Justice Standards and Training Commission of the Depart-

ment of Law Enforcement and chapter 943 for law enforcement officers. Each campus police officer must, before entering into the performance of the officer's duties, take the oath of office established by the board of trustees. The board of trustees must provide a uniform set of identifying credentials to each campus police officer it employs.

(e) In performance of any of the powers, duties, and functions authorized by law, campus police have the same rights, protections, and immunities afforded other law enforcement officers.

(f) The board of trustees shall adopt rules, including, without limitation, rules for the appointment, employment, and removal of campus police in accordance with the State Career Service System and shall establish in writing a policy manual, that includes, without limitation, procedures for managing routine law enforcement situations and emergency law enforcement situations. The board of trustees shall furnish a copy of the policy manual to each of the campus police officers it employs. A campus police officer appointed by the board of trustees must have completed the training required by the school in the special needs and proper procedures for dealing with students served by the school.

(9) **REPORT OF CAMPUS CRIME STATISTICS.—**

(a) The school shall prepare an annual report of statistics of crimes committed on its campus and shall submit the report to the board of trustees and the Commissioner of Education. The data for these reports may be taken from the annual report of the Department of Law Enforcement. The board of trustees shall prescribe the form for submission of these reports.

(b) The school shall prepare annually a report of statistics of crimes committed on its campus for the preceding 3 years. The school shall give students and prospective students notice that this report is available upon request.

History.—s. 101, ch. 2002-387; s. 1944, ch. 2003-261; s. 65, ch. 2004-267; s. 3, ch. 2004-331; s. 1, ch. 2006-132; s. 4, ch. 2006-205; s. 15, ch. 2008-108; s. 96, ch. 2009-21; s. 9, ch. 2011-52; s. 1, ch. 2012-78.

**1002.38 Opportunity Scholarship Program.—**

(1) **FINDINGS AND INTENT.—**The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work. The Legislature recognizes that the voters of the State of Florida, in the November 1998 general election, amended s. 1, Art. IX of the Florida Constitution so as to make education a paramount duty of the state. The Legislature finds that the State Constitution requires the state to provide a uniform, safe, secure, efficient, and high-quality system which allows the opportunity to obtain a high-quality education. The Legislature further finds that a student should not be compelled, against the wishes of the

student's parent, to remain in a school found by the state to be failing. The Legislature shall make available opportunity scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily.

(2) **OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—**

(a) A public school student's parent may request and receive an opportunity scholarship for the student to enroll in and attend a public school in accordance with the provisions of this section if:

1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has earned a grade of "F" or three consecutive grades of "D" pursuant to s. 1008.34 and the student's attendance occurred during a school year

in which such designation was in effect;

2. The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or

3. The student has been notified that he or she has been assigned to such school for the next school year.

(b) This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student graduates from high school.

(3) SCHOOL DISTRICT OBLIGATIONS.—

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as provided in subsection (2):

1. Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this section.

2. Offer that student's parent an opportunity to enroll the student in a public school within the district that has been designated by the state as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." The student shall have the opportunity to continue attendance in the higher-performing public school feeder pattern until the student graduates from high school.

(b) The parent of a student enrolled in or assigned to a school that has been designated as

provided in subsection (2) may choose as an alternative to subparagraph (a)2. to enroll the student in and transport the student to a higher-performing public school that has available space in any other school district in the state, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(c) For students in the school district who are participating in the state Opportunity Scholarship Program, the school district shall provide locations and times to take all statewide assessments required pursuant to s. 1008.22.

(d) Students with disabilities who are eligible to receive services from the school district under federal or state law, and who participate in this program, remain eligible to receive services from the school district as provided by federal or state law.

(e) If the parent chooses to request that the student be enrolled in a higher-performing public school in the school district, transportation costs to the higher-performing public school shall be the responsibility of the school district. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose.

(4) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section. Rules shall include penalties for noncompliance.

History.—s. 103, ch. 2002-387; s. 1945, ch. 2003-261; s. 79, ch. 2004-357; s. 1, ch. 2011-128; s. 6, ch. 2011-175; s. 4, ch. 2012-194.

**1002.385 Florida personal learning scholarship accounts.—**

(1) ESTABLISHMENT OF PROGRAM.—The Florida Personal Learning Scholarship Accounts Program is established to provide the option for a parent to better meet the individual educational needs of his or her eligible child.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Approved provider" means a provider approved by the Agency for Persons with Disabilities, a health care practitioner as defined in s. 456.001(4), or a provider approved by the department pursuant to s. 1002.66.

(b) "Curriculum" means a complete course of study for a particular content area or grade level, including any required supplemental materials.

(c) "Department" means the Department of Education.

(d) "Disability" means, for a student in kindergarten to grade 12, autism, as defined in s. 393.063(3); cerebral palsy, as defined in s. 393.063(4); Down syndrome, as defined in s. 393.063(13); an intellectual disability, as defined in s. 393.063(21); Prader-Willi syndrome, as defined in s. 393.063(25); or spina bifida, as defined in s.

393.063(36); for a student in kindergarten, being a high-risk child, as defined in s. 393.063(20)(a); and Williams syndrome.

(e) "Eligible nonprofit scholarship-funding organization" or "organization" has the same meaning as in s. 1002.395.

(f) "Eligible postsecondary educational institution" means a Florida College System institution, a state university, a school district technical center, a school district adult general education center, or an accredited nonpublic postsecondary educational institution, as defined in s. 1005.02, which is licensed to operate in the state pursuant to requirements specified in part III of chapter 1005.

(g) "Eligible private school" means a private school, as defined in s. 1002.01, which is located in this state, which offers an education to students in any grade from kindergarten to grade 12, and which meets requirements of:

1. Sections 1002.42 and 1002.421; and

2. A scholarship program under s. 1002.39 or s. 1002.395, as applicable, if the private school participates in a scholarship program under s. 1002.39 or s. 1002.395.

(h) "IEP" means individual education plan.

(i) "Parent" means a resident of this state

who is a parent, as defined in s. 1000.21.

(j) “Program” means the Florida Personal Learning Scholarship Accounts Program established in this section.

(3) PROGRAM ELIGIBILITY.—A parent of a student with a disability may request and receive from the state a Florida personal learning scholarship account for the purposes specified in subsection (5) if:

(a) The student:

1. Is a resident of this state;

2. Is eligible to enroll in kindergarten through grade 12 in a public school in this state;

3. Has a disability as defined in paragraph (2) (d); and

4. Is the subject of an IEP written in accordance with rules of the State Board of Education or has received a diagnosis of a disability as defined in subsection (2) from a physician who is licensed under chapter 458 or chapter 459 or a psychologist who is licensed in this state.

(b) Beginning January 2015, the parent has applied to an eligible nonprofit scholarship-funding organization to participate in the program by February 1 before the school year in which the student will participate or an alternative date as set by the organization for any vacant, funded slots. The request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request. The organization shall notify the district and the department of the parent’s intent upon receipt of the parent’s request.

(4) PROGRAM PROHIBITIONS.—

(a) A student is not eligible for the program while he or she is:

1. Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind; the Florida Virtual School; the College-Preparatory Boarding Academy; a developmental research school authorized under s. 1002.32; a charter school authorized under s. 1002.33, s. 1002.331, or s. 1002.332; or a virtual education program authorized under s. 1002.45;

2. Enrolled in a school operating for the purpose of providing educational services to youth in the Department of Juvenile Justice commitment programs;

3. Receiving a scholarship pursuant to the Florida Tax Credit Scholarship Program under s. 1002.395 or the John M. McKay Scholarships for Students with Disabilities Program under s. 1002.39; or

4. Receiving any other educational scholarship pursuant to this chapter.

(b) A student is not eligible for the program if:

1. The student or student’s parent has accepted any payment, refund, or rebate, in any manner, from a provider of any services received

pursuant to subsection (5);

2. The student’s participation in the program has been denied or revoked by the Commissioner of Education pursuant to subsection (10); or

3. The student’s parent has forfeited participation in the program for failure to comply with requirements pursuant to subsection (11).

(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds may be spent for the following purposes:

(a) Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content.

(b) Curriculum as defined in paragraph (2)(b).

(c) Specialized services by approved providers that are selected by the parent. These specialized services may include, but are not limited to:

1. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.

2. Services provided by speech-language pathologists as defined in s. 468.1125.

3. Occupational therapy services as defined in s. 468.203.

4. Services provided by physical therapists as defined in s. 486.021.

5. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device.

(d) Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2) (a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

(e) Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

(f) Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98, for the benefit of the eligible student.

(g) Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (4).

A specialized service provider, eligible private school, eligible postsecondary educational institution, private tutoring program provider, online or virtual program provider, public school, school district, or other entity receiving payments pursuant

to this subsection may not share, refund, or rebate any moneys from the Florida Personal learning scholarship account with the parent or participating student in any manner.

(6) **TERM OF THE PROGRAM.**—For purposes of continuity of educational choice, the program payments made under this section shall remain in force until a student participating in the program participates in any of the prohibited activities specified in subsection (4), has funds revoked by the Commissioner of Education pursuant to subsection (10), returns to a public school, graduates from high school, or attains 22 years of age, whichever occurs first. A participating student who enrolls in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the program's term.

(7) **SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.**—

(a)1. For a student with a disability who does not have a matrix of services under s. 1011.62(1)(e) and for whom the parent requests a matrix of services, the school district must complete a matrix that assigns the student to one of the levels of service as they existed before the 2000-2001 school year.

2.a. Within 10 school days after a school district receives notification of a parent's request for completion of a matrix of services, the school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for the matrix of services. This notice must include the required completion date for the matrix.

b. The school district shall complete the matrix of services for a student whose parent has made a request. The school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

c. The department shall notify the parent and the eligible nonprofit scholarship-funding organization of the amount of the funds awarded within 10 days after receiving the school district's notification of the student's matrix level.

d. A school district may change a matrix of services only if the change is to correct a technical, typographical, or calculation error.

(b) For each student participating in the program who chooses to participate in statewide, standardized assessments under s. 1008.22 or the Florida Alternate Assessment, the school district in which the student resides must notify the student and his or her parent about the locations and times to take all statewide, standardized assessments.

(c) For each student participating in the program, a school district shall notify the parent about the availability of a reevaluation at least every 3 years.

(8) **PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.**—An eligible private school may be sectarian or nonsectarian and shall:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the eligible nonprofit scholarship-funding organization, upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Annually administering or making provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school shall report a student's scores to the parent.

3. Cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to s. 1008.22 or, if a private school chooses to offer the statewide assessments, administering the assessments at the school.

a. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10.

b. A participating private school shall submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

(d) Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the school's physical location.

(e) Annually contract with an independent certified public accountant to perform the agreed-upon procedures developed under s. 1002.395(6)(n) and produce a report of the results if the private school receives more than \$250,000 in funds from scholarships awarded under this section in the 2014-2015 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by September 15, 2015, and annually thereafter to the scholarship-funding organization that awarded the majority of the school's scholarship funds. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The inability of a private school to meet the requirements of this subsection constitutes a basis for the ineligibility of the private school to participate in the program as determined by the department.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Maintain a list of approved providers.

(b) Require each eligible nonprofit scholarship-funding organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to paragraphs (5)(a) and (b). Review of expenditures made for services in paragraphs (5)(c)-(g) may be completed after the payment has been made.

(c) Investigate any written complaint of a violation of this section in accordance with the process established by s. 1002.395(9)(f).

(d) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the program, the providers of services to students, and other information deemed necessary by the department.

(e) Compare the list of students participating in the program with the public school enrollment lists before each program payment to avoid duplicate payments.

(10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

(a) The Commissioner of Education:

1. Shall deny, suspend, or revoke a student's participation in the program if the health, safety, or welfare of the student is threatened or fraud is suspected.

2. Shall deny, suspend, or revoke an authorized use of program funds if the health, safety, or welfare of the student is threatened or fraud is suspected.

3. May deny, suspend, or revoke an authorized use of program funds for material failure to comply with this section and applicable department rules if the noncompliance is correctable within a reasonable period of time. Otherwise, the commissioner shall deny, suspend, or revoke an authorized use for failure to materially comply with the law and rules adopted under this section.

4. Shall require compliance by the appropriate party by a date certain for all nonmaterial failures to comply with this section and applicable department rules. The commissioner may deny, suspend, or revoke program participation under this section thereafter.

(b) In determining whether to deny, suspend, or revoke in accordance with this subsection, the commissioner may consider factors that include, but are not limited to, acts or omissions by a participating entity which led to a previous denial or revocation of participation in an education scholarship program; failure to reimburse the

eligible nonprofit scholarship-funding organization for program funds improperly received or retained by the entity; imposition of a prior criminal sanction related to the entity or its officers or employees; imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an entity's management or operation; or other types of criminal proceedings in which the entity or its officers or employees were found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

(11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her child. The scholarship award for a student is based on a matrix that assigns the student to support Level III services. If a parent chooses to request and receive an IEP and a matrix of services from the school district, the amount of the payment shall be adjusted as needed, when the school district completes the matrix.

(a) To enroll an eligible student in the program, the parent must sign an agreement with the eligible nonprofit scholarship-funding organization and annually submit a notarized, sworn compliance statement to the organization to:

1. Affirm that the student is enrolled in a program that meets regular school attendance requirements as provided in s. 1003.01(13)(b)-(d).

2. Use the program funds only for authorized purposes, as described in subsection (5).

3. Affirm that the student takes all appropriate standardized assessments as specified in this section.

a. If the parent enrolls the child in an eligible private school, the student must take an assessment selected by the private school pursuant to s. 1002.395(7)(e).

b. If the parent enrolls the child in a home education program, the parent may choose to participate in an assessment as part of the annual evaluation provided for in s. 1002.41(1)(c).

4. Notify the school district that the student is participating in the Personal Learning Scholarship Accounts if the parent chooses to enroll in a home education program as provided in s. 1002.41.

5. Request participation in the program by the date established by the eligible nonprofit scholarship-funding organization.

6. Affirm that the student remains in good standing with the provider or school if those options are selected by the parent.

7. Apply for admission of his or her child if the private school option is selected by the parent.

8. Annually renew participation in the pro-



gram. Notwithstanding any changes to the student's IEP, a student who was previously eligible for participation in the program shall remain eligible to apply for renewal as provided in subsection (6).

9. Affirm that the parent will not transfer any college savings funds to another beneficiary.

10. Affirm that the parent will not take possession of any funding provided by the state for the Florida Personal Learning Scholarship Accounts.

11. Maintain a portfolio of records and materials which must be preserved by the parent for 2 years and be made available for inspection by the district school superintendent or the superintendent's designee upon 15 days' written notice. This paragraph does not require the superintendent to inspect the portfolio. The portfolio of records and materials must consist of:

a. A log of educational instruction and services which is made contemporaneously with delivery of the instruction and services and which designates by title any reading materials used; and

b. Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.

(b) The parent is responsible for procuring the services necessary to educate the student. When the student receives a personal learning scholarship account, the district school board is not obligated to provide the student with a free appropriate public education. For purposes of s. 1003.57 and the Individuals with Disabilities in Education Act, a participating student has only those rights that apply to all other unilaterally parentally placed students, except that, when requested by the parent, school district personnel must develop an individual education plan or matrix level of services.

(c) The parent is responsible for the payment of all eligible expenses in excess of the amount of the personal learning scholarship account in accordance with the terms agreed to between the parent and the providers.

A parent who fails to comply with this subsection forfeits the personal learning scholarship account.

(12) **ADMINISTRATION OF PERSONAL LEARNING SCHOLARSHIP ACCOUNTS.**—An eligible nonprofit scholarship-funding organization participating in the Florida Tax Credit Scholarship Program established under s. 1002.395 may establish personal learning scholarship accounts for eligible students by:

(a) Receiving applications and determining student eligibility in accordance with the requirements of this section. The organization shall notify the department of the applicants for the program by March 1 before the school year in which the student intends to participate. When an application is received, the scholarship funding organization must provide the department with information on

the student to enable the department to report the student for funding in accordance with subsection (13).

(b) Notifying parents of their receipt of a scholarship on a first-come, first-served basis based upon the funds provided for this program in the General Appropriations Act.

(c) Establishing a date by which a parent must confirm initial or continuing participation in the program and confirm the establishment or continuance of a personal learning scholarship account.

(d) Establishing a date and process by which students on the wait list or late-filing applicants may be allowed to participate in the program during the school year, within the amount of funds provided for this program in the General Appropriations Act.

(e) Establishing and maintaining separate accounts for each eligible student.

(f) Verifying qualifying expenditures pursuant to the requirements of paragraph (8)(b).

(g) Returning any unused funds to the department when the student is no longer eligible for a personal scholarship learning account.

(13) **FUNDING AND PAYMENT.**—

(a)1. The maximum funding amount granted for an eligible student with a disability, pursuant to subsection (3), shall be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program which would have been provided for the student in the district school to which he or she would have been assigned, multiplied by the district cost differential.

2. In addition, an amount equivalent to a share of the guaranteed allocation for exceptional students in the Florida Education Finance Program shall be determined and added to the amount in subparagraph 1. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraph 3., the calculation shall be based on the student's grade, the matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. The calculated amount must also include an amount equivalent to the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided in the General Appropriations Act.

3. Except as otherwise provided, the calculation for all students participating in the program shall be based on the matrix that assigns the student to support Level III of services. If a parent



chooses to request and receive a matrix of services from the school district, when the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the awarded funds shall be 90 percent of the calculated amount.

(c) Upon an eligible student's graduation from an eligible postsecondary educational institution or after any period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution, the student's personal learning scholarship account shall be closed, and any remaining funds shall revert to the state.

(d) The eligible nonprofit scholarship-funding organization shall develop a system for payment of benefits by electronic funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of electronic payment that the department deems to be commercially viable or cost-effective. Commodities or services related to the development of such a system shall be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

(e) Moneys received pursuant to this section do not constitute taxable income to the parent of the qualified student.

(14) OBLIGATIONS OF THE AUDITOR GENERAL.—

(a) The Auditor General shall conduct an annual financial and operational audit of accounts and records of each eligible scholarship-funding organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total amount of students served and eligibility of reimbursements made by each

eligible nonprofit scholarship-funding organization and transmit that information to the department.

(b) The Auditor General shall notify the department of any eligible nonprofit scholarship-funding organization that fails to comply with a request for information.

(15) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The Department of Health, the Agency for Persons with Disabilities, and the Department of Education shall work with an eligible nonprofit scholarship-funding organization for easy or automated access to lists of licensed providers of services specified in paragraph (5)(c) to ensure efficient administration of the program.

(16) LIABILITY.—The state is not liable for the award or any use of awarded funds under this section.

(17) SCOPE OF AUTHORITY.—This section does not expand the regulatory authority of this state, its officers, or any school district to impose additional regulation on participating private schools, nonpublic postsecondary educational institutions, and private providers beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(18) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

(19) IMPLEMENTATION SCHEDULE FOR THE 2014-2015 SCHOOL YEAR.—Notwithstanding the provisions of this section related to notification and eligibility timelines, an eligible nonprofit scholarship-funding organization may enroll parents on a rolling schedule on a first-come, first-served basis, within the amount of funds provided in the General Appropriations Act.

History.—s. 16, ch. 2014-184.

**1002.39 The John M. McKay Scholarships for Students with Disabilities Program.**—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom:

(a) An individual educational plan has been written in accordance with rules of the State Board of Education; or

(b) A 504 accommodation plan has been issued under s. 504 of the Rehabilitation Act of 1973.

Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impair-

ment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a student with a disability may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) The student has:

1. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current individual educational plan developed by the local school board in accordance with rules of the State Board of Education for the John M. McKay Scholarships for Students with Disabilities Program or a 504 accom-

modation plan has been issued under s. 504 of the Rehabilitation Act of 1973; or

2. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, prior school year in attendance means that the student was enrolled and reported by:

a. A school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

b. The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or

c. A school district for funding during the preceding October and February Florida Education Finance Program surveys, was at least 4 years of age when so enrolled and reported, and was eligible for services under s. 1003.21(1)(e).

However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders is exempt from this paragraph but must meet all other eligibility requirements to participate in the program.

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (8) and has requested from the department a scholarship at least 60 days before the date of the first scholarship payment. The request must be communicated directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The department must notify the district of the parent's intent upon receipt of the parent's request.

(3) **JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.**—A student is not eligible for a John M. McKay Scholarship:

(a) While he or she is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) While he or she is receiving a Florida tax credit scholarship under s. 1002.395;

(c) While he or she is receiving an educational scholarship pursuant to this chapter;

(d) While he or she is participating in a home education program as defined in s. 1002.01(1);

(e) While he or she is participating in a private tutoring program pursuant to s. 1002.43;

(f) While he or she is participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation

is limited to no more than two courses per school year;

(g) While he or she is enrolled in the Florida School for the Deaf and the Blind;

(h) While he or she is not having regular and direct contact with his or her private school teachers at the school's physical location; or

(i) If he or she has been issued a temporary 504 accommodation plan under s. 504 of the Rehabilitation Act of 1973 which is valid for 6 months or less.

(4) **TERM OF JOHN M. MCKAY SCHOLARSHIP.**—

(a) For purposes of continuity of educational choice, a John M. McKay Scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first. A scholarship student who enrolls in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the scholarship's term. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school for that purpose.

(b) Upon reasonable notice to the department and the school district, the student's parent may remove the student from the private school and place the student in a public school in accordance with this section.

(c) Upon reasonable notice to the department, the student's parent may move the student from one participating private school to another participating private school.

(5) **SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.**—

(a)1. By April 1 of each year and within 10 days after an individual education plan meeting or a 504 accommodation plan is issued under s. 504 of the Rehabilitation Act of 1973, a school district shall notify the parent of the student of all options available pursuant to this section, inform the parent of the availability of the department's telephone hotline and Internet website for additional information on John M. McKay Scholarships, and offer that student's parent an opportunity to enroll the student in another public school in the district.

2. The parent is not required to accept the offer of enrolling in another public school in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school.

3. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not

consistent with the district school board's choice plan under s. 1002.31.

(b)1. For a student with disabilities who does not have a matrix of services under s. 1011.62(1) (e), the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year.

2.a. Within 10 school days after it receives notification of a parent's request for a John M. McKay Scholarship, a school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for a John M. McKay Scholarship. This notice should include the required completion date for the matrix.

b. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the department of the student's matrix level within 30 days after receiving notification of a request to participate in the scholarship program. The school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

c. The department shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level.

d. A school district may change a matrix of services only if the change is to correct a technical, typographical, or calculation error.

(c) A school district shall provide notification to parents of the availability of a reevaluation at least every 3 years of each student who receives a John M. McKay Scholarship.

(d) If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the department 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

(e) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan or 504 accommodation plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(f) For a student who participates in the John M. McKay Scholarships for Students with Disabilities Program whose parent requests that the student

take the statewide assessments under s. 1008.22, the district in which the student attends private school shall provide locations and times to take all statewide assessments.

(6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Establish a toll-free hotline that provides parents and private schools with information on participation in the John M. McKay Scholarships for Students with Disabilities Program.

(b) Annually verify the eligibility of private schools that meet the requirements of subsection (8).

(c) Establish a process by which individuals may notify the department of any violation by a parent, private school, or school district of state laws relating to program participation. The department shall conduct an inquiry of any written complaint of a violation of this section, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this section or any rule adopted by the State Board of Education has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation from the complainant. A department inquiry is not subject to the requirements of chapter 120.

(d) Require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain such records.

(e) Cross-check the list of participating scholarship students with the public school enrollment lists prior to each scholarship payment to avoid duplication.

(f)1. Conduct random site visits to private schools participating in the John M. McKay Scholarships for Students with Disabilities Program. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results, which information is required by rules of the State Board of Education, subsection (8), and s. 1002.421. The Department of Education may not make more than three random site visits each year and may not make more than one random site visit each year to the same private school.

2. Annually, by December 15, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section and s. 1002.421, any substantiated allegations or violations of law or rule by an eligible private school under this program concerning the enrollment and attendance of

students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

(7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

(a) The Commissioner of Education:

1. Shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, if the noncompliance is correctable within a reasonable amount of time and if the health, safety, or welfare of the students is not threatened, the commissioner may issue a notice of noncompliance which provides the private school with a timeframe within which to provide evidence of compliance before taking action to suspend or revoke the private school's participation in the scholarship program.

2. May deny, suspend, or revoke a private school's participation in the scholarship program if the commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in this state or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

a. In making such a determination, the commissioner may consider factors that include, but are not limited to, acts or omissions by an owner or operator which led to a previous denial or revocation of participation in an education scholarship program; an owner's or operator's failure to reimburse the Department of Education for scholarship funds improperly received or retained by a school; imposition of a prior criminal sanction related to an owner's or operator's management or operation of an educational institution; imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or other types of criminal proceedings in which an owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

b. For purposes of this subparagraph, the term "owner or operator" includes an owner, operator, superintendent, or principal of, or a person who has equivalent decisionmaking authority over, a private school participating in the scholarship program.

(b) The commissioner's determination is subject to the following:

1. If the commissioner intends to deny, suspend, or revoke a private school's participation in the scholarship program, the department shall notify the private school of such proposed action in writing by certified mail and regular mail to the

private school's address of record with the department. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this paragraph.

2. The private school that is adversely affected by the proposed action shall have 15 days from receipt of the notice of proposed action to file with the department's agency clerk a request for a proceeding pursuant to ss. 120.569 and 120.57. If the private school is entitled to a hearing under s. 120.57(1), the department shall forward the request to the Division of Administrative Hearings.

3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

(c) The commissioner may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, or welfare of the students; or

2. Fraudulent activity on the part of the private school. Notwithstanding s. 1002.22, in incidents of alleged fraudulent activity pursuant to this section, the Department of Education's Office of Inspector General is authorized to release personally identifiable records or reports of students to the following persons or organizations:

a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

b. A person or entity authorized by a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

c. Any person, entity, or authority issuing a subpoena for law enforcement purposes when the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

The commissioner's order suspending payment

pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in paragraph (b).

(8) **PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.**—To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school may be sectarian or non-sectarian and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the department all documentation required for a student's participation, including the private school's and student's fee schedules, at least 30 days before any quarterly scholarship payment is made for the student pursuant to paragraph (10)(e). A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Cooperating with the scholarship student whose parent chooses to participate in the statewide assessments pursuant to s. 1008.22.

(d) Maintain in this state a physical location where a scholarship student regularly attends classes.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the department.

(9) **PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.**—A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school.

(a) The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the John M. McKay Scholarships for Students with Disabilities Program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.

(d) Each parent and each student has an obligation to the private school to comply with the private school's published policies.

(e) If the parent requests that the student participating in the John M. McKay Scholarships for Students with Disabilities Program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the

student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(10) **JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.**—

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the amount in subparagraph 1. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. The calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided in the General Appropriations Act.

3. The scholarship amount for a student who is eligible under sub-subparagraph (2)(a)2.b. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

4. Until the school district completes the matrix required by paragraph (5)(b), the calculation shall be based on the matrix that assigns the student to support Level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

5. The scholarship amount for a student eligible under s. 504 of the Rehabilitation Act of 1973 shall be based on the program cost factor the student currently generates through the Florida Education Finance Program.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the



amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c)1. The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

2. For program participants who are eligible under sub-subparagraph (2)(a)2.b., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:

a. Report to the department all such students who are attending a private school under this program.

b. Be held harmless for such students from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b. during the first school year in which the students are reported.

(d) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be transferred from any funding provided to the Florida School for the Deaf and the Blind for program participants who are eligible under sub-subparagraph (2)(a)2.b. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the John M. McKay Scholarship calculated pursuant to paragraph (b) shall be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the department must receive all documentation required for the student's participation, including the private school's and the student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(e) Upon notification by the department that it has received the documentation required under

paragraph (d), the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the department to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(f) Subsequent to each scholarship payment, the department shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

(11) **LIABILITY.**—No liability shall arise on the part of the state based on the award or use of a John M. McKay Scholarship.

(12) **SCOPE OF AUTHORITY.**—The inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(13) **RULES.**—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules that school districts must use to expedite the development of a matrix of services based on an active individual education plan from another state or a foreign country for a transferring student with a disability who is a dependent child of a member of the United States Armed Forces. The rules must identify the appropriate school district personnel who must complete the matrix of services. For purposes of these rules, a transferring student with a disability is one who was previously enrolled as a student with a disability in an out-of-state or an out-of-country public or private school or agency program and who is transferring from out of state or from a foreign country pursuant to a parent's permanent change of station orders.

History.—s. 104, ch. 2002-387; s. 1946, ch. 2003-261; s. 11, ch. 2004-230; s. 1, ch. 2006-75; s. 1, ch. 2006-126; s. 177, ch. 2008-4; s. 2, ch. 2008-204; s. 6, ch. 2009-108; s. 5, ch. 2009-239; s. 15, ch. 2010-24; s. 8, ch. 2010-154; s. 1, ch. 2010-227; s. 1, ch. 2011-127; s. 7, ch. 2011-175; s. 27, ch. 2014-39.

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#### **1002.391 Auditory-oral education programs.—**

(1) As used in this section, the term:

(a) “Auditory-oral education program” means a program that develops and relies solely on listening skills and uses an implant or assistive hearing device for the purpose of relying on speech and

spoken language skills as the method of communication.

(b) “Deaf or hard of hearing” means aided or unaided hearing loss that affects the processing of linguistic information and adversely affects performance in the educational environment. The



degree of loss may range from mild to profound in accordance with criteria established by rule of the State Board of Education.

(c) "School" means a public or private school located in this state which can teach children who have obtained an implant or assistive hearing device, using faculty certified as listening and spoken language specialists.

(2) The parent of a child who is deaf or hard of hearing and who meets the following requirements may enroll the child in an auditory-oral education program as a school of choice pursuant to s. 1002.20. Such child may continue attending the school and complete the development of listening and spoken language skills at the school. In order to enroll and attend, the child must:

(a) Have received an implant or assistive

hearing device;

(b) Be between the ages of 3 and 7 years, or between the ages of 2 and 7 years when the school district elects to serve children with disabilities who are under the age of 3 years; and

(c) Be a resident of the state.

(3) The level of services shall be determined by the individual educational plan team or individualized family support plan team, which includes the child's parent in accordance with the rules of the State Board of Education. A child is eligible for services under this section until the end of the school year in which he or she reaches the age of 7 years or after grade 2, whichever comes first.

History.—s. 8, ch. 2011-175.

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### **1002.395 Florida Tax Credit Scholarship Program.—**

(1) FINDINGS AND PURPOSE.—

(a) The Legislature finds that:

1. It has the inherent power to determine subjects of taxation for general or particular public purposes.

2. Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

3. Ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

4. Expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the state and to ensuring that all children receive the high-quality education to which they are entitled.

(b) The purpose of this section is to:

1. Enable taxpayers to make private, voluntary contributions to nonprofit scholarship-funding organizations in order to promote the general welfare.

2. Provide taxpayers who wish to help parents with limited resources exercise their basic right to educate their children as they see fit with a means to do so.

3. Promote the general welfare by expanding educational opportunities for children of families that have limited financial resources.

4. Enable children in this state to achieve a greater level of excellence in their education.

5. Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

(c) The purpose of this section is not to prescribe the standards or curriculum for private schools. A private school retains the authority to determine its own standards and curriculum.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Annual tax credit amount" means, for any state fiscal year, the sum of the amount of tax credits approved under paragraph (5)(b), including tax credits to be taken under s. 220.1875 or s. 624.51055, which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.

(b) "Department" means the Department of Revenue.

(c) "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families.

(d) "Division" means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(e) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution.

(f) "Eligible nonprofit scholarship-funding organization" means a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a charitable organization that:

1. Is exempt from federal income tax pursu-

ant to s. 501(c)(3) of the Internal Revenue Code;

2. Is a Florida entity formed under chapter 607, chapter 608, or chapter 617 and whose principal office is located in the state; and

3. Complies with subsections (6) and (16).

(g) "Eligible private school" means a private school, as defined in s. 1002.01(2), located in Florida which offers an education to students in any grades K-12 and that meets the requirements in subsection (8).

(h) "Household income" has the same meaning as the term "income" as defined in the Income Eligibility Guidelines for free and reduced price meals under the National School Lunch Program in 7 C.F.R. part 210 as published in the Federal Register by the United States Department of Agriculture.

(i) "Owner or operator" includes:

1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with equivalent decisionmaking authority over an eligible nonprofit scholarship-funding organization.

2. An owner, operator, superintendent, or principal of an eligible private school or a person with equivalent decisionmaking authority over an eligible private school.

(j) "Tax credit cap amount" means the maximum annual tax credit amount that the department may approve in a state fiscal year.

(k) "Unweighted FTE funding amount" means the statewide average total funds per unweighted full-time equivalent funding amount that is incorporated by reference in the General Appropriations Act, or any subsequent special appropriations act, for the applicable state fiscal year.

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

(a) The Florida Tax Credit Scholarship Program is established.

(b) For the 2014-2015 and 2015-2016 school years, contingent upon available funds, a student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student qualifies for free or reduced-price school lunches under the National School Lunch Act or is on the direct certification list;

2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. 39.01; or

3. The student continues in the scholarship program as long as the student's household income level does not exceed 230 percent of the federal poverty level.

(c) For the 2016-2017 school year and thereafter, contingent upon available funds, a student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student is on the direct certification

list or the student's household income level does not exceed 185 percent of the federal poverty level; or

2. The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. 39.01.

3. The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

A student who initially receives a scholarship based on eligibility under subparagraph (b)2. or subparagraph (c)2. remains eligible until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.

(4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for a scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Receiving a scholarship from another eligible nonprofit scholarship-funding organization under this section;

(c) Receiving an educational scholarship pursuant to chapter 1002;

(d) Participating in a home education program as defined in s. 1002.01(1);

(e) Participating in a private tutoring program pursuant to s. 1002.43;

(f) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; or

(g) Enrolled in the Florida School for the Deaf and the Blind.

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(a)1. The tax credit cap amount is \$229 million in the 2012-2013 state fiscal year.

2. In the 2013-2014 state fiscal year and each state fiscal year thereafter, the tax credit cap amount is the tax credit cap amount in the prior state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount shall increase by 25 percent. The Department of Education and Department of Revenue shall publish on their websites information identifying the tax credit cap amount when it is increased pursuant to this subparagraph.

(b) A taxpayer may submit an application to the department for a tax credit or credits under one or more of s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

1. The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit under s. 220.1875 or s. 624.51055 or the applicable state fiscal year for a credit under s. 211.0251, s. 212.1831, or s. 561.1211. The department shall approve tax credits on a first-come, first-served basis and must obtain the division's approval before approving a tax credit under s. 561.1211.

2. Within 10 days after approving an application, the department shall provide a copy of its approval letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application.

(c) If a tax credit approved under paragraph (b) is not fully used within the specified state fiscal year for credits under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes due for the specified taxable year for credits under s. 220.1875 or s. 624.51055 because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years. However, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application to the department for approval of the carryforward tax credit in the year that the taxpayer intends to use the carryforward. The department must obtain the division's approval prior to approving the carryforward of a tax credit under s. 561.1211.

(d) A taxpayer may not convey, assign, or transfer an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall notify the department of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the department. The department shall obtain the division's approval before approving a conveyance, transfer, or assignment of a tax credit under s. 561.1211.

(e) Within any state fiscal year, a taxpayer may rescind all or part of a tax credit approved under paragraph (b). The amount rescinded shall become available for that state fiscal year to another eligible taxpayer as approved by the department

if the taxpayer receives notice from the department that the rescindment has been accepted by the department. The department must obtain the division's approval prior to accepting the rescindment of a tax credit under s. 561.1211. Any amount rescinded under this paragraph shall become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the department.

(f) For purposes of calculating the underpayment of estimated corporate income taxes pursuant to s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount after credits earned under s. 220.1875 or s. 624.51055 for contributions to eligible nonprofit scholarship-funding organizations are deducted.

1. For purposes of determining if a penalty or interest shall be imposed for underpayment of estimated corporate income tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning a credit under s. 220.1875, reduce the following estimated payment in that taxable year by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

2. For purposes of determining if a penalty under s. 624.5092 shall be imposed, an insurer may, after earning a credit under s. 624.51055, reduce the following installment payment of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. 624.5092(2)(b) by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(a) Must comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(b) Must comply with the following background check requirements:

1. All owners and operators as defined in subparagraph (2)(i)1. are, before employment or engagement to provide services, subject to level 2 background screening as provided under chapter 435. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and can be taken by an authorized law enforcement agency or by an employee of the eligible nonprofit scholarship-funding organization or a private company who is trained to take fingerprints. However, the complete set of fingerprints of an owner or operator may not be taken by the owner or operator. The results of the state and national criminal history check shall be provided to the Department of Education for screening under chapter 435. The cost of the background screening may be borne by the eligible nonprofit scholarship-funding organization or the

owner or operator.

2. Every 5 years following employment or engagement to provide services or association with an eligible nonprofit scholarship-funding organization, each owner or operator must meet level 2 screening standards as described in s. 435.04, at which time the nonprofit scholarship-funding organization shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not retained by the Department of Law Enforcement under subparagraph 3., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the eligible nonprofit scholarship-funding organization shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under subparagraph 3.

3. Fingerprints submitted to the Department of Law Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

4. The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 3. Any arrest record that is identified with an owner's or operator's fingerprints must be reported to the Department of Education. The Department of Education shall participate in this search process by paying an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the employment, engagement, or association status of the owners or operators whose fingerprints are retained under subparagraph 3. The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon the Department of Education for performing these services and establishing the procedures for the retention of owner and operator fingerprints and the dissemination of search results. The fee may be borne by the owner or operator of the nonprofit scholarship-funding organization.

5. A nonprofit scholarship-funding organization whose owner or operator fails the level 2 background screening is not eligible to provide scholarships under this section.

6. A nonprofit scholarship-funding organization whose owner or operator in the last 7 years

has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than 20 percent shall not be eligible to provide scholarships under this section.

7. In addition to the offenses listed in s. 435.04, a person required to undergo background screening pursuant to this part or authorizing statutes must not have an arrest awaiting final disposition for, must not have been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, and must not have been adjudicated delinquent, and the record must not have been sealed or expunged for, any of the following offenses or any similar offense of another jurisdiction:

- a. Any authorizing statutes, if the offense was a felony.
- b. This chapter, if the offense was a felony.
- c. Section 409.920, relating to Medicaid provider fraud.
- d. Section 409.9201, relating to Medicaid fraud.
- e. Section 741.28, relating to domestic violence.
- f. Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photo-electronic, or photooptical systems.
- g. Section 817.234, relating to false and fraudulent insurance claims.
- h. Section 817.505, relating to patient brokering.
- i. Section 817.568, relating to criminal use of personal identification information.
- j. Section 817.60, relating to obtaining a credit card through fraudulent means.
- k. Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.
- l. Section 831.01, relating to forgery.
- m. Section 831.02, relating to uttering forged instruments.
- n. Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
- o. Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.
- p. Section 831.30, relating to fraud in obtaining medicinal drugs.
- q. Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

(c) Must not have an owner or operator who owns or operates an eligible private school that is participating in the scholarship program.

(d) Must provide scholarships, from eligible contributions, to eligible students for the cost of:

1. Tuition and fees for an eligible private school; or
2. Transportation to a Florida public school that is located outside the district in which the student resides or to a lab school as defined in s.

1002.32.

(e) Must give first priority to eligible students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year. Beginning in the 2016-2017 school year, an eligible nonprofit scholarship-funding organization shall give priority to new applicants whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.

(f) Must provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e).

(g) May not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.

(h) Must allow a student in foster care or out-of-home care to apply for a scholarship at any time.

(i) Must allow an eligible student to attend any eligible private school and must allow a parent to transfer a scholarship during a school year to any other eligible private school of the parent's choice.

(j)1. May use up to 3 percent of eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated under this section for at least 3 state fiscal years and did not have any negative financial findings in its most recent audit under paragraph (m). Such administrative expenses must be reasonable and necessary for the organization's management and distribution of eligible contributions under this section. No funds authorized under this subparagraph shall be used for lobbying or political activity or expenses related to lobbying or political activity. Up to one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from taxpayers. If an eligible nonprofit scholarship-funding organization charges an application fee for a scholarship, the application fee must be immediately refunded to the person that paid the fee if the student is not enrolled in a participating school within 12 months.

2. Must expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. All amounts carried forward, for audit purposes, must be specifically identified for particular students, by student name and the name of the school to which the student is admitted, subject to the requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, and the applica-

ble rules and regulations issued pursuant thereto. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be returned to the State Treasury for deposit in the General Revenue Fund.

3. Must, before granting a scholarship for an academic year, document each scholarship student's eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process.

(k) Must maintain separate accounts for scholarship funds and operating funds.

(l) With the prior approval of the Department of Education, may transfer funds to another eligible nonprofit scholarship-funding organization if additional funds are required to meet scholarship demand at the receiving nonprofit scholarship-funding organization. A transfer is limited to the greater of \$500,000 or 20 percent of the total contributions received by the nonprofit scholarship-funding organization making the transfer. All transferred funds must be deposited by the receiving nonprofit scholarship-funding organization into its scholarship accounts. All transferred amounts received by any nonprofit scholarship-funding organization must be separately disclosed in the annual financial and compliance audit required in this section.

(m) Must provide to the Auditor General and the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Auditor General and the Department of Education within 180 days after completion of the eligible nonprofit scholarship-funding organization's fiscal year. The Auditor General shall review all audit reports submitted pursuant to this paragraph. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the scholarship-funding organization does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee.

(n) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (9)(m). In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the Department of Education relating to the scholarship



program.

(o)1.a. Must participate in the joint development of agreed-upon procedures to be performed by an independent certified public accountant as required under paragraph (8)(e) if the scholarship-funding organization provided more than \$250,000 in scholarship funds to an eligible private school under this section during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under paragraph (9)(c); has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant's performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.

b. Must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph a., by February 2013 and biennially thereafter, if the scholarship-funding organization provided more than \$250,000 in scholarship funds to an eligible private school under this section during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15, 2013, and biennially thereafter.

c. Must monitor the compliance of a private school with paragraph (8)(e) if the scholarship-funding organization provided the majority of the scholarship funding to the school. For each private school subject to paragraph (8)(e), the appropriate scholarship-funding organization shall notify the Commissioner of Education by October 30, 2011, and annually thereafter of:

(I) A private school's failure to submit a report required under paragraph (8)(e); or

(II) Any material exceptions set forth in the report required under paragraph (8)(e).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools when jointly developing the agreed-upon procedures and guidelines under sub-subparagraph 1.a. and conducting a review of those procedures and guidelines under sub-subparagraph 1.b.

(p) Must maintain the surety bond or letter of credit required by subsection (16). The amount of the surety bond or letter of credit may be adjusted quarterly to equal the actual amount of undisbursed funds based upon submission by the organization of a statement from a certified public

accountant verifying the amount of undisbursed funds. The requirements of this paragraph are waived if the cost of acquiring a surety bond or letter of credit exceeds the average 10-year cost of acquiring a surety bond or letter of credit by 200 percent. The requirements of this paragraph are waived for a state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(q) Must provide to the Auditor General any information or documentation requested in connection with an operational audit of a scholarship funding organization conducted pursuant to s. 11.45.

Information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—

(a) The parent must select an eligible private school and apply for the admission of his or her child.

(b) The parent must inform the child's school district when the parent withdraws his or her child to attend an eligible private school.

(c) Any student participating in the scholarship program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.

(d) Each parent and each student has an obligation to the private school to comply with the private school's published policies.

(e) The parent shall ensure that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that the student participating in the scholarship program take statewide assessments pursuant to s. 1008.22 and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant from the eligible nonprofit scholarship-funding organization, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact



to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(g) The parent shall authorize the nonprofit scholarship-funding organization to access information needed for income eligibility determination and verification held by other state or federal agencies, including the Department of Revenue, the Department of Children and Families, the Department of Education, the Department of Economic Opportunity, and the Agency for Health Care Administration.

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the eligible nonprofit scholarship-funding organization, upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Annually administering or making provision for students participating in the scholarship program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to the Learning System Institute described in paragraph (9)(j).

3. Cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to s. 1008.22 or, if a private school chooses to offer the statewide assessments, administering the assessments at the school.

a. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10.

b. A participating private school must submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

(d) Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the

school's physical location.

(e) Annually contract with an independent certified public accountant to perform the agreed-upon procedures developed under paragraph (6)(o) and produce a report of the results if the private school receives more than \$250,000 in funds from scholarships awarded under this section in the 2010-2011 state fiscal year or a state fiscal year thereafter. A private school subject to this paragraph must submit the report by September 15, 2011, and annually thereafter to the scholarship-funding organization that awarded the majority of the school's scholarship funds. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the Department of Education.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(a) Annually submit to the department and division, by March 15, a list of eligible nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(f).

(b) Annually verify the eligibility of nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(f).

(c) Annually verify the eligibility of private schools that meet the requirements of subsection (8).

(d) Annually verify the eligibility of expenditures as provided in paragraph (6)(d) using the audit required by paragraph (6)(m) and s. 11.45(2)(k).

(e) Establish a toll-free hotline that provides parents and private schools with information on participation in the scholarship program.

(f) Establish a process by which individuals may notify the Department of Education of any violation by a parent, private school, or school district of state laws relating to program participation. The Department of Education shall conduct an inquiry of any written complaint of a violation of this section, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this section or any rule adopted by the State Board of Education has occurred. In order to determine legal sufficiency, the Department of Education may require supporting information or documentation from the complainant. A department inquiry is not subject to the requirements of chapter 120.

(g) Require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall

retain such records.

(h) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.

(i) Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (8)(c)2. The tests must meet industry standards of quality in accordance with State Board of Education rule.

(j) Issue a project grant award to the Learning System Institute at the Florida State University, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to \$500,000 per year. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The Learning System Institute must annually report to the Department of Education on the student performance of participating students:

a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students' performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the Learning System Institute's analysis and evaluation, the Department of Education shall coordinate with the Learning System Institute to provide data to the Learning System Institute in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology with the Learning System Institute; and

b. On an individual school basis. The annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Florida Tax Credit Scholarship Program in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the Learning System Institute determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the Learning System Institute may reduce the participating-student cell size, but the cell size must not be reduced to less than 10 participating students. The department shall provide each private school's prior school year's student enrollment information to the Learning System Institute no later than June 15 of each year, or as requested by the Learning System Institute.

2. The sharing and reporting of student

performance data under this paragraph must be in accordance with requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act, and the applicable rules and regulations issued pursuant thereto, and shall be for the sole purpose of creating the annual report required by subparagraph 1. All parties must preserve the confidentiality of such information as required by law. The annual report must not disaggregate data to a level that will identify individual participating schools, except as required under sub-subparagraph 1.b., or disclose the academic level of individual students.

3. The annual report required by subparagraph 1. shall be published by the Department of Education on its website.

(k) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving educational scholarships pursuant to chapter 1002.

(l) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving tax credit scholarships from other eligible nonprofit scholarship-funding organizations.

(m) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the scholarship program, the private schools at which the students are enrolled, and other information deemed necessary by the Department of Education.

(n)1. Conduct site visits to private schools participating in the Florida Tax Credit Scholarship Program. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results. The Department of Education may not make more than seven site visits each year; however, the department may make additional site visits at any time to any school that has received a notice of noncompliance or a notice of proposed action within the previous 2 years.

2. Annually, by December 15, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section and s. 1002.421, any substantiated allegations or violations of law or rule by an eligible private school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

(o) Provide a process to match the direct certification list with the scholarship application data submitted by any nonprofit scholarship-fund-

ing organization eligible to receive the 3-percent administrative allowance under paragraph (6)(j).

(p) Upon the request of a participating private school, provide at no cost to the school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. Students at a private school may be assessed using the statewide assessments if the addition of those students and the school does not cause the state to exceed its contractual caps for the number of students tested and the number of testing sites. The state shall provide the same materials and support to a private school that it provides to a public school. A private school that chooses to administer statewide assessments under s. 1008.22 shall follow the requirements set forth in ss. 1008.22 and 1008.24, rules adopted by the State Board of Education to implement those sections, and district-level testing policies established by the district school board.

#### (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

(a) Upon the request of any eligible nonprofit scholarship-funding organization, a school district shall inform all households within the district receiving free or reduced-priced meals under the National School Lunch Act of their eligibility to apply for a tax credit scholarship. The form of such notice shall be provided by the eligible nonprofit scholarship-funding organization, and the district shall include the provided form, if requested by the organization, in any normal correspondence with eligible households. If an eligible nonprofit scholarship-funding organization requests a special communication to be issued to households within the district receiving free or reduced-price meals under the National School Lunch Act, the organization shall reimburse the district for the cost of postage. Such notice is limited to once a year.

(b) Upon the request of the Department of Education, a school district shall coordinate with the department to provide to a participating private school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

1. Provision of training for private school staff on test security and assessment administration procedures;
2. Distribution of testing materials to a private school;
3. Retrieval of testing materials from a private school;
4. Provision of the required format for a private school to submit information to the district for test administration and enrollment purposes; and
5. Provision of any required assistance, monitoring, or investigation at a private school.

#### (11) COMMISSIONER OF EDUCATION AUTHOR-

#### ITY AND OBLIGATIONS.—

(a)1. The Commissioner of Education shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the commissioner may issue a notice of noncompliance that shall provide the private school with a timeframe within which to provide evidence of compliance prior to taking action to suspend or revoke the private school's participation in the scholarship program.

2. The Commissioner of Education may deny, suspend, or revoke a private school's participation in the scholarship program if the commissioner determines that:

a. An owner or operator of a private school has exhibited a previous pattern of failure to comply with this section or s. 1002.421; or

b. An owner or operator of the private school is operating or has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

In making the determination under this subparagraph, the commissioner may consider factors that include, but are not limited to, acts or omissions by an owner or operator that led to a previous denial or revocation of participation in an education scholarship program; an owner's or operator's failure to reimburse the Department of Education or a nonprofit scholarship-funding organization for scholarship funds improperly received or retained by a school; imposition of a prior criminal sanction, civil fine, administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or other types of criminal proceedings in which the owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

(b) The commissioner's determination is subject to the following:

1. If the commissioner intends to deny, suspend, or revoke a private school's participation in the scholarship program, the Department of Education shall notify the private school of such proposed action in writing by certified mail and regular mail to the private school's address of record with the Department of Education. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this paragraph.

2. The private school that is adversely af-

affected by the proposed action shall have 15 days from receipt of the notice of proposed action to file with the Department of Education's agency clerk a request for a proceeding pursuant to ss. 120.569 and 120.57. If the private school is entitled to a hearing under s. 120.57(1), the Department of Education shall forward the request to the Division of Administrative Hearings.

3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

(c) The commissioner may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, and welfare of the students;
2. A previous pattern of failure to comply with this section or s. 1002.421; or
3. Fraudulent activity on the part of the private school. Notwithstanding s. 1002.22, in incidents of alleged fraudulent activity pursuant to this section, the Department of Education's Office of Inspector General is authorized to release personally identifiable records or reports of students to the following persons or organizations:
  - a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
  - b. A person or entity authorized by a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
  - c. Any person, entity, or authority issuing a subpoena for law enforcement purposes when the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

The commissioner's order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the

notice of proposed action set forth in paragraph (b).

(12) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) Except as provided in subparagraph 2., the amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall be for total costs authorized under paragraph (6)(d), not to exceed annual limits, which shall be determined as follows:

1.a. For a scholarship awarded to a student enrolled in an eligible private school, the limit shall be determined by multiplying the unweighted FTE funding amount in that state fiscal year by the percentage used to determine the limit in the prior state fiscal year. However, in each state fiscal year that the tax credit cap amount increases pursuant to paragraph (5)(a), the prior year percentage shall be increased by 4 percentage points and the increased percentage shall be used to determine the limit for that state fiscal year. If the percentage so calculated reaches 80 percent in a state fiscal year, no further increase in the percentage is allowed and the limit shall be 80 percent of the unweighted FTE funding amount for that state fiscal year and thereafter. Beginning in the 2016-2017 state fiscal year, the amount of a scholarship awarded to a student enrolled in an eligible private school shall be equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.

b. For a scholarship awarded to a student enrolled in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. 1002.32, the limit shall be \$500.

2. The annual limit for a scholarship under sub-subparagraph 1.a. shall be reduced by:

a. Twenty-five percent if the student's household income level is equal to or greater than 200 percent, but less than 215 percent, of the federal poverty level.

b. Fifty percent if the student's household income level is equal to or greater than 215 percent, but equal to or less than 230 percent, of the federal poverty level.

3. For the 2016-2017 state fiscal year and thereafter, the annual limit for a scholarship under sub-subparagraph 1.a. shall be reduced by:

a. Twelve percent if the student's household income level is greater than or equal to 200 percent, but less than 215 percent, of the federal poverty level.

b. Twenty-six percent if the student's household income level is greater than or equal to 215 percent, but less than 230 percent, of the federal poverty level.

c. Forty percent if the student's household income level is greater than or equal to 230 percent, but less than 245 percent, of the federal poverty level.

d. Fifty percent if the student's household income level is greater than or equal to 245 percent, but less than or equal to 260 percent, of the federal poverty level.

(b) Payment of the scholarship by the eligible nonprofit scholarship-funding organization shall be by individual warrant made payable to the student's parent. If the parent chooses that his or her child attend an eligible private school, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An eligible nonprofit scholarship-funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school.

(c) An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(d) Payment of the scholarship shall be made by the eligible nonprofit scholarship-funding organization no less frequently than on a quarterly basis.

**(13) ADMINISTRATION; RULES.—**

(a) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(b) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(c) The division shall adopt rules necessary to administer its responsibilities under this section and s. 561.1211.

(d) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

**(14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—**

All eligible contributions received by an eligible nonprofit scholarship-funding organization shall be deposited in a manner consistent with s. 17.57(2).

(15) **PRESERVATION OF CREDIT.**—If any provision or portion of this section, s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity shall not affect any credit earned under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 by any taxpayer with respect to any contribution paid to an eligible non-

profit scholarship-funding organization before the date of a determination of unconstitutionality or invalidity. Such credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship-funding organization.

**(16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS; APPLICATION.**—In order to participate in the scholarship program created under this section, a charitable organization that seeks to be a nonprofit scholarship-funding organization must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 of each year before the school year for which the organization intends to offer scholarships.

(a) An application for initial approval must include:

1. A copy of the organization's incorporation documents and registration with the Division of Corporations of the Department of State.

2. A copy of the organization's Internal Revenue Service determination letter as a s. 501(c)(3) not-for-profit organization.

3. A description of the organization's financial plan that demonstrates sufficient funds to operate throughout the school year.

4. A description of the geographic region that the organization intends to serve and an analysis of the demand and unmet need for eligible students in that area.

5. The organization's organizational chart.

6. A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility.

7. A description of the application process, including deadlines and any associated fees.

8. A description of the deadlines for attendance verification and scholarship payments.

9. A copy of the organization's policies on conflict of interest and whistleblowers.

10. A copy of a surety bond or letter of credit in an amount equal to 25 percent of the scholarship funds anticipated for each school year or \$100,000, whichever is greater.

(b) In addition to the information required by subparagraphs (a)1.-9., an application for renewal must include:

1. A surety bond or letter of credit equal to the amount of undisbursed donations held by the organization based on the annual report submitted pursuant to paragraph (6)(m). The amount of the surety bond or letter of credit must be at least \$100,000, but not more than \$25 million.

2. The organization's completed Internal



Revenue Service Form 990 submitted no later than November 30 of the year before the school year that the organization intends to offer the scholarships, notwithstanding the September 1 application deadline.

3. A copy of the statutorily required audit to the Department of Education and Auditor General.

4. An annual report that includes:

a. The number of students who completed applications, by county and by grade.

b. The number of students who were approved for scholarships, by county and by grade.

c. The number of students who received funding for scholarships within each funding category, by county and by grade.

d. The amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligation of those funds.

e. A detailed accounting of how the organization spent the administrative funds allowable under paragraph (6)(j).

(c) In consultation with the Department of Revenue and the Chief Financial Officer, the Office of Independent Education and Parental Choice shall review the application. The Department of Education shall notify the organization in writing of any deficiencies within 30 days after receipt of the application and allow the organization 30 days to correct any deficiencies.

(d) Within 30 days after receipt of the finalized application by the Office of Independent Education and Parental Choice, the Commissioner of Education shall recommend approval or disapproval of the application to the State Board of Education. The State Board of Education shall consider the application and recommendation at the next scheduled meeting, adhering to appropriate meeting notice requirements. If the State Board of Education disapproves the organization's application, it shall provide the organization with a written explanation of that determination. The State Board of Education's action is not subject to chapter 120.

(e) If the State Board of Education disapproves the renewal of a nonprofit scholarship-funding organization, the organization must notify the affected eligible students and parents of the decision within 15 days after disapproval. An eligible student affected by the disapproval of an organization's participation remains eligible under this section until the end of the school year in which the organization was disapproved. The student must apply and be accepted by another eligible nonprofit scholarship-funding organization for the upcoming school year. The student shall be given priority in

accordance with paragraph (6)(f).

(f) All remaining funds held by a nonprofit scholarship-funding organization that is disapproved for participation must revert to the Department of Revenue for redistribution to other eligible nonprofit scholarship-funding organizations.

(g) A nonprofit scholarship-funding organization is a renewing organization if it maintains continuous approval and participation in the program. An organization that chooses not to participate for 1 year or more or is disapproved to participate for 1 year or more must submit an application for initial approval in order to participate in the program again.

(h) The State Board of Education shall adopt rules providing guidelines for receiving, reviewing, and approving applications for new and renewing nonprofit scholarship-funding organizations. The rules must include a process for compiling input and recommendations from the Chief Financial Officer, the Department of Revenue, and the Department of Education. The rules must also require that the nonprofit scholarship-funding organization make a brief presentation to assist the State Board of Education in its decision.

(i) A state university; or an independent college or university which is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education to be an eligible nonprofit scholarship-funding organization. The State Board of Education shall adopt rules that identify the procedure for filing the registration notice with the department. The rules must identify appropriate reporting requirements for fiscal, programmatic, and performance accountability purposes consistent with this section, but shall not exceed the requirements for eligible nonprofit scholarship-funding organizations for charitable organizations. A nonprofit scholarship-funding organization that becomes eligible pursuant to this paragraph may begin providing scholarships to participating students in the 2015-2016 school year.

History.—s. 5, ch. 2001-225; s. 42, ch. 2002-218; s. 258, ch. 2003-261; s. 9, ch. 2003-391; s. 16, ch. 2004-5; s. 2, ch. 2006-75; s. 2, ch. 2008-142; s. 2, ch. 2008-235; s. 1, ch. 2008-241; s. 2, ch. 2009-108; s. 4, ch. 2009-239; s. 1, ch. 2010-24; s. 4, ch. 2010-209; s. 3, ch. 2011-123; s. 1, ch. 2012-22; s. 67, ch. 2013-116; s. 364, ch. 2014-19; s. 17, ch. 2014-184.

<sup>1</sup>Note.—The word “as” was substituted for the word “is” by the editors.

Note.—Former s. 220.187.

#### **1002.42 Private schools.—**

(1) DEFINITION.—A “private school” is defined in s. 1002.01.

(2) ANNUAL PRIVATE SCHOOL SURVEY.—

(a) The Department of Education shall organize, maintain, and annually update a database of educational institutions within the state coming within the provisions of this section. There shall

be included in the database of each institution the name, address, and telephone number of the institution; the type of institution; the names of administrative officers; the enrollment by grade or special group (e.g., career education and exceptional child education); the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and such data as may be needed to meet the provisions of this section and s. 1003.23(2).

(b) For the purpose of organizing, maintaining, and updating this database, each private school shall annually execute and file a database survey form on a date designated by the Department of Education which shall include a notarized statement ascertaining that the owner of the private school has complied with the provisions of paragraph (c). For the purpose of this section, "owner" means any individual who is the chief administrative officer of a private school.

(c)1. Notwithstanding the provisions of paragraph (h), each person who is an owner or who establishes, purchases, or otherwise becomes an owner of a private school shall, within 5 days of assuming ownership of a school, file with the Department of Law Enforcement a complete set of fingerprints for state processing and checking for criminal background. The fingerprints shall be taken by an authorized law enforcement officer or an employee of the school who is trained to take fingerprints. The costs of fingerprinting, criminal records checking, and processing shall be borne by the applicant or private school. The result of the criminal records checking by the Department of Law Enforcement shall be forwarded to the owner of the private school and shall be made available for public inspection in the private school office as soon as it is received.

2. It shall be unlawful for a person who has been convicted of a crime involving moral turpitude to own or operate a private school.

3. An owner of a private school may require school employees to file a complete set of fingerprints with the Department of Law Enforcement for processing and criminal records checking. Findings from such processing and checking shall be reported to the owner for use in employment decisions.

4. Owners or employees of private schools who have been fingerprinted pursuant to this paragraph, s. 1012.32, or s. 402.3055 shall not be required to be refingerprinted if they have not been unemployed or unassociated with a private school or child care facility for more than 90 days.

5. Persons holding a valid Florida teaching certificate who have been fingerprinted pursuant to s. 1012.35 shall not be required to comply with the provisions of this paragraph.

(d) The data inquiries to be included and answered in the survey required in paragraph (b) shall be limited to matters set forth in paragraph

(a). The department shall furnish annually to each school sufficient copies of this form.

(e) To ensure completeness and accuracy of the database, each existing private educational institution falling within the provisions of this section shall notify the Department of Education of any change in the name of the institution, the address, or the chief administrative officer. Each new institution shall notify the department of its establishment.

(f) Annually, the department shall make accessible to the public data on private education in this state. Such data shall include that collected pursuant to paragraph (a) and from other sources.

(g) The failure of any institution to submit the annual database survey form and notarized statement of compliance with the provisions of paragraph (c), as required by this section, shall be judged a misdemeanor and, upon conviction, proper authorities of such institution shall be subject to a fine not exceeding \$500. Submission of data for a nonexistent school or an institution providing no instruction or training, the purpose of which is to defraud the public, is unlawful and the person or persons responsible commit a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Persons found to be in violation of subparagraph (c)2. commit a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(h) It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.

(3) RETENTION OF RECORDS.—

(a) As used in this subsection:

1. "Defunct private school" means any private school that has terminated the operation of an education or training program, or that has no students in attendance, or that has dissolved as a business entity.

2. "Student records" means those records, files, documents, and other materials that contain information directly related to students that are maintained by a private school or by a person acting for such institution and that are accessible to other professional personnel to facilitate the instruction, guidance, and educational progress of students. Information contained in student records

shall be classified as follows:

a. Permanent information, which includes verified information of clear educational importance, containing the following: student's full name and any known changes thereto due to marriage or adoption; authenticated birthdate, place of birth, race, and sex; last known address of student; names of student's parents; name and location of last school attended; number of days present and absent; date enrolled; date withdrawn; courses taken and record of achievement; and date of graduation or program achievement.

b. Temporary information, which includes verified information subject to change, containing, but not limited to, the following: health information, standardized test scores, honors and activities, personal attributes, work experience, teacher and counselor comments, and special reports.

(b) All private schools that become defunct shall transfer all permanent information contained in student records to the district school superintendent of the public school district in which the private school was located; or, if the private school is a member of a private school system or association, such school may transfer such records to the principal office of such system or association, which shall constitute full compliance with this subsection. In the event that such private school system or association becomes defunct, it shall transfer all the permanent information contained in its files to the district school superintendent of the public school district in which the private school was located.

(c) All private schools that become defunct shall notify the Department of Education Office of Private Schools and Home Education Programs of the date of transfer of student records, the location of storage, the custodian of such records, and the number of records to be stored. The department shall act as a clearinghouse and maintain a registry of such transfers of student records.

(d) It is not the intent of the Legislature to limit or restrict the use or possession of any student records while a school is operational, but to facilitate access to academic records by former students seeking to continue their education or training after a private school has become defunct.

(4) ATTENDANCE RECORDS AND REPORTS.—All officials, teachers, and other employees in parochial, religious, denominational, and private schools shall keep and prepare records in accordance with the provisions of s. 1003.23(2).

(5) SCHOOL-ENTRY HEALTH EXAMINATIONS.—The governing authority of each private school shall require students to present a certification of a school-entry health examination in accordance with the provisions of s. 1003.22(1) and (2).

(6) IMMUNIZATIONS.—The governing authority of each private school shall:

(a) Require students to present a certification of immunization in accordance with the provisions

of s. 1003.22(3)-(11).

(b) Provide information on the importance of student health and available immunizations and vaccinations, including, but not limited to:

1. A recommended immunization schedule in accordance with United States Centers for Disease Control and Prevention recommendations.

2. Detailed information regarding the causes, symptoms, and transmission of meningococcal disease and the availability, effectiveness, known contraindications, and appropriate age for the administration of any required or recommended vaccine against meningococcal disease, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention.

(7) ATTENDANCE REQUIREMENTS.—Attendance of a student at a private, parochial, religious, or denominational school satisfies the attendance requirements of ss. 1003.01(13) and 1003.21(1).

(8) ATHLETIC COMPETITION.—A private school may participate in athletic competition with a public high school in accordance with the provisions of s. 1006.20(1).

(9) RECEIPT OF EDUCATIONAL MATERIALS.—The Department of Education may disseminate educational materials and sell copies for educational use to private schools pursuant to s. 1006.39.

(10) INSTRUCTIONAL MATERIALS.—District school boards may dispose of instructional materials when they become unserviceable or surplus or are no longer on state contract by giving them to a private school in accordance with the provisions of s. 1006.41.

(11) DIAGNOSTIC AND RESOURCE CENTERS.—Diagnostic and resource centers may provide testing and evaluation services to private school students in accordance with the provisions of s. 1006.03(3).

(12) EXCEPTIONAL EDUCATION SERVICES.—District school boards may provide instruction for an appropriate program of special instruction, facilities, and services for exceptional students through contractual arrangements with approved private schools in accordance with the provisions of s. 1003.57.

(13) PROFESSIONAL DEVELOPMENT SYSTEM.—An organization of private schools that has no fewer than 10 member schools in this state may develop a professional development system to be filed with the Department of Education in accordance with the provisions of s. 1012.98(6).

(14) BUS DRIVER TRAINING.—Private school bus drivers may participate in a district school board's bus driver training program, if the district school board makes the program available pursuant to s. 1012.45(4).

(15) POOL PURCHASE OF SCHOOL BUSES.—

(a) Florida private schools that demonstrate a racially nondiscriminatory student admission policy

may purchase school buses from the state pool purchase program as authorized in s. 1006.27(1), if the private school meets the following conditions:

1. Students in one or more grades, kindergarten through grade 12, are provided an education program by the school and the school has submitted the information required pursuant to this section and the most recent school survey required in subsection (2).

2. All conditions of the contracts for purchasing school buses between the Department of Education and the companies involved, including bus specifications, ordering deadlines, delivery period and procedures, and payment requirements, shall be met.

3. Purchase orders shall be made out to the appropriate company or companies involved and shall be accompanied by a certified check in the amount of 25 percent of the total cost of the bus or buses as a good faith deposit that the bus or buses will be purchased.

4. The remainder of the total cost shall be paid upon delivery of the bus or buses to the representative of the private school receiving the bus or buses, or shall be paid when the company informs the purchaser that the buses are ready for delivery if the purchaser has specified that buses are to be picked up at the company's location. If the chassis and the body are purchased from different companies, the remainder of the chassis' total cost shall be payable upon delivery of the chassis to the body manufacturer.

5. If the private school does not meet the obligation stated in subparagraph 4. within 30 calendar days after notice that the bus is ready for delivery or that the chassis has been delivered to the body manufacturer, the selling company may retain 15 percent of the amount being held by the company as a good faith deposit, and all obligations to the private school may be canceled. When the 15 percent is retained, the company shall return 10 percent of the good faith deposit to the nonpublic school within 15 days of cancellation of the companies' objection.

(b) Any bus purchased under this section may not be sold, if still titled as a motor vehicle, within 5 calendar years of the date of the initial Florida title being issued, unless the following conditions are met:

1. The bus or buses may be sold only to a Florida public school district or Florida private school. Any such sale during the first 5 years shall be documented to the Department of Education within 15 days after the sale.

2. The bus or buses shall be advertised by the private school in one major newspaper located in each of the five regions of the state for 3 consecutive days and a copy of the advertisement and the name of each newspaper shall be sent to the Department of Education before the first day of

advertising the bus or buses for sale.

3. The bus may not be sold at a profit. The bus shall be depreciated at a rate of 10 percent per calendar year, with the first year starting on the date of issue of the initial title in this state.

4. Notwithstanding any other provisions of law and rule regarding purchase of used school buses, the bus may be sold to a public school district if the conditions of subparagraph 3. are met.

5. Any public school district or private school purchasing a bus under the conditions of this subsection must accept the obligations of this subsection, and such shall be entered in the sales contract.

(c) Any private school, including the owner or corporation purchasing a bus or buses under the conditions of this section, that does not comply with all the conditions of this section shall not be eligible for future purchases of a school bus under this section.

(d) Any private school interested in purchasing a bus under this section shall notify, in writing, the Department of Education. The Department of Education shall send the school the appropriate forms, instructions, and price quotations.

(e) Notwithstanding any other provisions of this section, no school bus manufacturer, distributor, or dealer shall be required to violate any dealer contract or franchise agreement entered into before the effective date of this section regarding the sale of its buses.

(f) The State Board of Education may adopt rules pursuant to ss. 120.536 and 120.54 necessary to implement this section, maintain the integrity of the school bus pool purchase program, and ensure the best and lowest price for purchasing school buses by the public school districts.

(16) **EMERGENCY PROCEDURES.**—The emergency response agencies identified in a district school board's emergency response policy pursuant to s. 1006.07(4) which are responsible for notifying the school district of an occurrence that threatens student safety shall also notify private schools in the district that request such notification by opting into the district school board's emergency notification procedures.

(17) **EPINEPHRINE SUPPLY.**—

(a) A private school may purchase from a wholesale distributor as defined in s. 499.003 and maintain in a locked, secure location on its premises a supply of epinephrine auto-injectors for use if a student is having an anaphylactic reaction. The participating private school shall adopt a protocol developed by a licensed physician for the administration by private school personnel who are trained to recognize an anaphylactic reaction and to administer an epinephrine auto-injection. The supply of epinephrine auto-injectors may be provided to and used by a student authorized to self-administer epinephrine by auto-injector under s. 1002.20(3)(i)

or trained school personnel.

(b) The private school and its employees and agents, including the physician who provides the standing protocol for school epinephrine auto-injectors, are not liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

1. Unless the trained school personnel's action is willful and wanton;
2. Notwithstanding that the parents or

guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

3. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced registered nurse practitioner.

History.—s. 107, ch. 2002-387; s. 33, ch. 2003-391; s. 36, ch. 2004-41; s. 80, ch. 2004-357; s. 2, ch. 2006-246; s. 3, ch. 2013-63.

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**1002.451 District innovation school of technology program.—**

(1) DISTRICT INNOVATION SCHOOL OF TECHNOLOGY.—

(a) A district school board may operate an innovation school of technology for the purpose of developing the innovative use of industry-leading technology while requiring high student academic achievement and accountability in exchange for flexibility and exemption from specified statutes and rules. The innovation school of technology shall operate within existing resources.

(b) An innovation school of technology is a school that has, on a schoolwide basis, adopted and implemented a blended learning program. A blended learning program is an education program in which a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace and in part at a supervised brick-and-mortar location away from home. Blended learning models must include major components such as differentiated instruction, data-driven placement, flexible scheduling, differentiated teaching, and self-paced learning. The school may use one of the following blended learning models:

1. Flipped classroom model in which students use online instructional videos and practice concepts in the classroom with the support of the teacher;
2. Flex model in which students learn primarily online and teachers act as facilitators; or
3. Rotation model in which students move between different learning modalities, such as online instruction, teacher-directed instruction, seminar or group projects, and one-on-one teacher coaching. Rotation models include individual, station, and laboratory models.

(c) An innovation school of technology must be open to any student covered in an interdistrict agreement or residing in the school district in which the innovation school of technology is located. An innovation school of technology shall enroll an eligible student who submits a timely application if the number of applications does not exceed the capacity of a program, class, grade level, or building. If the number of applications exceeds ca-

capacity, all applicants shall have an equal chance of being admitted through a public random selection process. However, a district may give enrollment preference to students who identify the innovation school of technology as the student's preferred choice pursuant to the district's controlled open enrollment plan.

(2) GUIDING PRINCIPLES.—An innovation school of technology shall be guided by the following principles:

(a) Meet high standards of student achievement in exchange for flexibility with respect to statutes or rules.

(b) Implement innovative learning methods and assessment tools to implement a schoolwide transformation regarding industry-leading technology to improve student learning and academic achievement.

(c) Promote enhanced academic success and financial efficiency by aligning responsibility with accountability and industry-leading technology.

(d) Measure student performance based on student learning growth, or based on student achievement if student learning growth cannot be measured.

(e) Provide a parent with sufficient information as to whether his or her child is reading at grade level and making learning gains each year.

(f) Incorporate industry certifications and similar recognitions into performance expectations.

(g) Focus on utilizing industry-leading hardware and software technology for student individual use and to develop the school's infrastructure in furtherance of this section.

(3) TERM OF PERFORMANCE CONTRACT.—An innovation school of technology may operate pursuant to a performance contract with the State Board of Education for a period of 5 years.

(a) Before expiration of the performance contract, the school's performance shall be evaluated against the eligibility criteria, purpose, guiding principles, and compliance with the contract to determine whether the contract may be renewed. The contract may be renewed every 5 years.

(b) The performance contract shall be terminated by the State Board of Education if:

1. The school receives a grade of "F" as an



innovation school of technology for 2 consecutive years;

2. The school or district fails to comply with the criteria in this section;

3. The school or district does not comply with terms of the contract which specify that a violation results in termination; or

4. Other good cause is shown.

(4) **FUNDING.**—A district school board operating an innovation school of technology shall report full-time equivalent students to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program as provided in ss. 1011.61 and 1011.62. An innovation school of technology may seek and receive additional funding through incentive grants or public or private partnerships.

(5) **EXEMPTION FROM STATUTES.**—

(a) An innovation school of technology is exempt from chapters 1000-1013. However, an innovation school of technology shall comply with the following provisions of those chapters:

1. Laws pertaining to the following:

a. Schools of technology, including this section.

b. Student assessment program and school grading system.

c. Services to students who have disabilities.

d. Civil rights, including s. 1000.05, relating to discrimination.

e. Student health, safety, and welfare.

2. Laws governing the election and compensation of district school board members and election or appointment and compensation of district school superintendents.

3. Section 1003.03, governing maximum class size, except that the calculation for compliance pursuant to s. 1003.03 is the average at the school level.

4. Sections 1012.22(1)(c) and 1012.27(2), relating to compensation and salary schedules.

5. Section 1012.33(5), relating to workforce reductions, for annual contracts for instructional personnel. This subparagraph does not apply to at-will employees.

6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011, for annual contracts for instructional personnel. This subparagraph does not apply to at-will employees.

7. Section 1012.34, relating to requirements for performance evaluations of instructional personnel and school administrators.

(b) An innovation school of technology shall also comply with chapter 119 and s. 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.

(c) An innovation school of technology is exempt from ad valorem taxes and the State Requirements for Educational Facilities when leasing

facilities.

(6) **APPLICATION PROCESS AND PERFORMANCE CONTRACT.**—

(a) A district school board may apply to the State Board of Education for an innovation school of technology if the district:

1. Has at least 20 percent of its total enrollment in public school choice programs or at least 5 percent of its total enrollment in charter schools;

2. Has no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted pursuant to s. 218.39; and

3. Has received a district grade of “A” or “B” in each of the past 3 years.

(b) A district school board may operate one innovation school of technology upon an application being approved by the State Board of Education.

1. A district school board may apply to the State Board of Education to establish additional schools of technology if each existing innovation school of technology in the district:

a. Meets all requirements in this section and in the performance contract;

b. Has a grade of “A” or “B”; and

c. Has at least 50 percent of its students exceed the state average on the statewide assessment program pursuant to s. 1008.22. This comparison may take student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II), into specific consideration so that at least 50 percent of students in each student subgroup meet or exceed the statewide average performance, rounded to the nearest whole number, of that particular subgroup.

2. Notwithstanding subparagraph 1., the number of schools of technology in a school district may not exceed:

a. Seven in a school district that has 100,000 or more students.

b. Five in a school district that has 50,000 to 99,999 students.

c. Three in a school district that has fewer than 50,000 students.

(c) A school district that meets the eligibility requirements of paragraph (a) may apply to the State Board of Education at any time to enter into a performance contract to operate an innovation school of technology. The application must, at a minimum:

1. Demonstrate how the school district meets and will continue to meet the requirements of this section;

2. Identify how the school will accomplish the purposes and guiding principles of this section;

3. Identify the statutes or rules from which the district is seeking a waiver for the school;

4. Identify and provide supporting documentation for the purpose and impact of each waiver, how each waiver would enable the school to

achieve the purpose and guiding principles of this section, and how the school would not be able to achieve the purpose and guiding principles of this section without each waiver; and

5. Confirm that the school board remains responsible for the operation, control, and supervision of the school in accordance with all applicable laws, rules, and district procedures not waived pursuant to this section or waived pursuant to other applicable law.

(d) The State Board of Education shall approve or deny the application within 90 days or, with the agreement of the school district, at a later date.

(e) The performance contract must address the terms under which the State Board of Education may cancel the contract and, at a minimum, the methods by which:

1. Upon execution of the performance contract, the school district will plan the program during the first year, begin at least partial implementation of the program during the second year, and fully implement the program by the third year. A district may implement the program sooner than specified in this subparagraph if authorized in the performance contract.

2. The school will integrate industry-leading technology into instruction, assessment, and professional development. The school may also restructure the school day or school year in a way that allows it to best accomplish its goals.

3. The school and district will monitor performance progress based on skills that help students succeed in college and careers, including problem solving, research, interpretation, and communication.

4. The school will incorporate industry certifications and similar recognitions into performance expectations.

5. The school and district will comply with this section and the performance contract.

(f) Three or more contiguous school districts may apply to enter into a joint performance contract as a Region of Technology, subject to terms and conditions contained in this section for a single

school district.

(g) The State Board of Education shall monitor schools of technology to ensure that the respective school district is in compliance with this section and the performance contract.

(h) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including, but not limited to, an application, evaluation instrument, and renewal evaluation instrument.

(i) This section does not supersede the provisions of s. 768.28.

(7) **REPORTS.**—The school district of an innovation school of technology shall submit to the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives an annual report by December 1 of each year which delineates the performance of the innovation school of technology as it relates to the academic performance of students. The annual report shall be submitted in a format prescribed by the Department of Education and must include, but need not be limited to, the following:

(a) Evidence of compliance with this section.

(b) Efforts to close the achievement gap.

(c) Longitudinal performance of students, by grade level and subgroup, in mathematics, reading, writing, science, and any other subject that is included as a part of the statewide assessment program in s. 1008.22.

(d) Longitudinal performance for students who take an Advanced Placement Examination, organized by age, gender, and race, and for students who participate in the National School Lunch Program.

(e) Number and percentage of students who take an Advanced Placement Examination.

(f) Identification and analysis of industry-leading technology used to comply with this section, including, but not limited to, recommendations and lessons learned from such use.

History.—s. 10, ch. 2013-250.

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**1002.51 Definitions.—As used in this part, the term:**

(1) “Department” means the Department of Education.

(2) “Disability” means any disability listed in the definition of exceptional student in s. 1003.01.

(3) “Specialized instructional services provider” means a provider delivering specialized instructional services under s. 1002.66.

(4) “Early learning coalition” or “coalition” means an early learning coalition created under s. 1002.83.

(5) “Prekindergarten director” means an onsite person ultimately responsible for the overall

operation of a private prekindergarten provider or, alternatively, of the provider’s prekindergarten program, regardless of whether the person is the owner of the provider.

(6) “Prekindergarten instructor” means a teacher or child care personnel as defined in s. 402.302 who provide instruction to students in the Voluntary Prekindergarten Education Program.

(7) “Private prekindergarten provider” means a provider other than a public school which is eligible to deliver the school-year prekindergarten program under s. 1002.55 or the summer prekindergarten program under s. 1002.61.

History.—s. 1, ch. 2004-484; s. 2, ch. 2010-227; s. 2, ch. 2013-252.

**1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.—**

(1) The Voluntary Prekindergarten Education Program is created and shall be organized, designed, and delivered in accordance with s. 1(b) and (c), Art. IX of the State Constitution.

(2) Each child who resides in this state who will have attained the age of 4 years on or before September 1 of the school year is eligible for the Voluntary Prekindergarten Education Program during that school year. The child remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. or until the child is admitted to kindergarten, whichever occurs first.

(3) The parent of each child eligible under subsection (2) may enroll the child in one of the following programs:

(a) A school-year prekindergarten program delivered by a private prekindergarten provider under s. 1002.55;

(b) A summer prekindergarten program delivered by a public school or private prekindergarten provider under s. 1002.61;

(c) A school-year prekindergarten program delivered by a public school; or

(d) A specialized instructional services program for children who have disabilities, if the child has been evaluated and determined as eligible, has a current individual educational plan developed by the local school board, and is eligible for the program under s. 1002.66.

Except as provided in s. 1002.71(4), a child may not enroll in more than one of these programs.

(4)(a) Each parent enrolling a child in the Voluntary Prekindergarten Education Program must complete and submit an application to the early learning coalition through the single point of entry established under s. 1002.82.

(b) The application must be submitted on forms prescribed by the Office of Early Learning and must be accompanied by a certified copy of the child's birth certificate. The forms must include a certification, in substantially the form provided in s. 1002.71(6)(b)2., that the parent chooses the private prekindergarten provider or public school in accordance with this section and directs that payments for the program be made to the provider or school. The Office of Early Learning may authorize alternative methods for submitting proof of the child's age in lieu of a certified copy of the child's birth certificate.

(c) Each early learning coalition shall coordinate with each of the school districts within the coalition's county or multicounty region in the development of procedures for enrolling children in prekindergarten programs delivered by public schools.

(5) The early learning coalition shall provide each parent enrolling a child in the Voluntary Pre-

kindergarten Education Program with a profile of every private prekindergarten provider and public school delivering the program within the county where the child is being enrolled. The profiles shall be provided to parents in a format prescribed by the Office of Early Learning. The profiles must include, at a minimum, the following information about each provider and school:

(a) The provider's or school's services, curriculum, instructor credentials, and instructor-to-student ratio; and

(b) The provider's or school's kindergarten readiness rate calculated in accordance with s. 1002.69, based upon the most recent available results of the statewide kindergarten screening.

(6)(a) A parent may enroll his or her child with any private prekindergarten provider that is eligible to deliver the Voluntary Prekindergarten Education Program under this part; however, the provider may determine whether to admit any child. An early learning coalition may not limit the number of students admitted by any private prekindergarten provider for enrollment in the program. However, this paragraph does not authorize an early learning coalition to allow a provider to exceed any staff-to-children ratio, square footage per child, or other requirement imposed under ss. 402.301-402.319 as a result of admissions in the prekindergarten program.

(b) A parent may enroll his or her child with any public school within the school district which is eligible to deliver the Voluntary Prekindergarten Education Program under this part, subject to available space. Each school district may limit the number of students admitted by any public school for enrollment in the school-year program; however, the school district must provide for the admission of every eligible child within the district whose parent enrolls the child in a summer prekindergarten program delivered by a public school under s. 1002.61.

(c) Each private prekindergarten provider and public school must comply with the antidiscrimination requirements of 42 U.S.C. s. 2000d, regardless of whether the provider or school receives federal financial assistance. A private prekindergarten provider or public school may not discriminate against a parent or child, including the refusal to admit a child for enrollment in the Voluntary Prekindergarten Education Program, in violation of these antidiscrimination requirements.

History.—s. 1, ch. 2004-484; s. 4, ch. 2009-3; s. 26, ch. 2010-210; s. 3, ch. 2010-227; s. 449, ch. 2011-142; s. 3, ch. 2013-252.

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**1002.66 Specialized instructional services for children with disabilities.—**

(1) A child who has a disability and enrolls with the early learning coalition under s. 1002.53(3)(d) is eligible for specialized instructional services if:

(a) The child is eligible for the Voluntary Prekindergarten Education Program under s. 1002.53; and

(b) A current individual educational plan has been developed for the child by the local school board in accordance with rules of the State Board of Education.

(2) The parent of a child who is eligible for the prekindergarten program for children with disabilities may select one or more specialized instructional services that are consistent with the child's individual educational plan. These specialized instructional services may include, but are not limited to:

(a) Applied behavior analysis as defined in ss. 627.6686 and 641.31098.

(b) Speech-language pathology as defined in s. 468.1125.

(c) Occupational therapy as defined in s. 468.203.

(d) Physical therapy as defined in s. 486.021.

(e) Listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing who has received an implant or assistive hearing device.

(3) The specialized instructional services

provided for a child under this section must be delivered according to professionally accepted standards; must be in accordance with the performance standards adopted by the department under s. 1002.67; and must address the age-appropriate progress of the child in the development of the capabilities, capacities, and skills required under s. 1(b), Art. IX of the State Constitution.

(4) The department shall approve specialized instructional service providers whose services meet the standards in subsection (3), maintain a list of approved providers, and notify each school district and early learning coalition of the approved provider list. Upon the request of a child's parent, the department may approve a specialized instructional service provider that is not on the approved list if the provider's services meet the standards in subsection (3) and the service is consistent with the child's individual educational plan.

(5) The coalition shall reimburse an approved specialized instructional service provider for authorized services provided to an eligible child; however, the cumulative total of services reimbursed for a child may not exceed the amount of the base student allocation provided in the Voluntary Prekindergarten Education Program in the General Appropriations Act. Providers shall be reimbursed from funds allocated to the early learning coalition for the Voluntary Prekindergarten Education Program.

History.—s. 4, ch. 2010-227; s. 10, ch. 2011-175; s. 9, ch. 2013-252.

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**1002.81 Definitions.—**Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

(1) "At-risk child" means:

(a) A child from a family under investigation by the Department of Children and Families or a designated sheriff's office for child abuse, neglect, abandonment, or exploitation.

(b) A child who is in a diversion program provided by the Department of Children and Families or its contracted provider and who is from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work.

(c) A child from a family that is under supervision by the Department of Children and Families or a contracted service provider for abuse, neglect, abandonment, or exploitation.

(d) A child placed in court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by the Department of Children and Families or its contracted provider.

(e) A child in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.

(f) A child in the custody of a parent who is

considered homeless as verified by a Department of Children and Families certified homeless shelter.

(2) "Authorized hours of care" means the hours of care that are necessary to provide protection, maintain employment, or complete work activities or eligible educational activities, including reasonable travel time.

(3) "Average market rate" means the biennially determined average of the market rate by program care level and provider type in a predetermined geographic market.

(4) "Direct enhancement services" means services for families and children that are in addition to payments for the placement of children in the school readiness program. Direct enhancement services for families and children may include supports for providers, parent training and involvement activities, and strategies to meet the needs of unique populations and local eligibility priorities. Direct enhancement services offered by an early learning coalition shall be consistent with the activities prescribed in s. 1002.89(6)(b).

(5) "Disenrollment" means the removal, either temporary or permanent, of a child from participation in the school readiness program. Removal of a child from the school readiness program may be based on the following events: a reduction

in available school readiness program funding, participant's failure to meet eligibility or program participation requirements, fraud, or a change in local service priorities.

(6) "Earned income" means gross remuneration derived from work, professional service, or self-employment. The term includes commissions, bonuses, back pay awards, and the cash value of all remuneration paid in a medium other than cash.

(7) "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level and includes being a child of a working migratory family as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural worker who is employed by more than one agricultural employer during the course of a year, and whose income varies according to weather conditions and market stability.

(8) "Family income" means the combined gross income, whether earned or unearned, that is derived from any source by all family or household members who are 18 years of age or older who are currently residing together in the same dwelling unit. The term does not include income earned by a currently enrolled high school student who, since attaining the age of 18 years, or a student with a disability who, since attaining the age of 22 years, has not terminated school enrollment or received a high school diploma, high school equivalency diploma, special diploma, or certificate of high school completion. The term also does not include food stamp benefits or federal housing assistance payments issued directly to a landlord or the associated utilities expenses.

(9) "Family or household members" means spouses, former spouses, persons related by blood or marriage, persons who are parents of a child in common regardless of whether they have been married, and other persons who are currently residing together in the same dwelling unit as if a family.

(10) "Full-time care" means at least 6 hours, but not more than 11 hours, of child care or early childhood education services within a 24-hour period.

(11) "Market rate" means the price that a child care or early childhood education provider charges for full-time or part-time daily, weekly, or

monthly child care or early childhood education services.

(12) "Office" means the Office of Early Learning of the Department of Education.

(13) "Part-time care" means less than 6 hours of child care or early childhood education services within a 24-hour period.

(14) "Single point of entry" means an integrated information system that allows a parent to enroll his or her child in the school readiness program or the Voluntary Prekindergarten Education Program at various locations throughout a county, that may allow a parent to enroll his or her child by telephone or through a website, and that uses a uniform waiting list to track eligible children waiting for enrollment in the school readiness program.

(15) "Unearned income" means income other than earned income. The term includes, but is not limited to:

(a) Documented alimony and child support received.

(b) Social security benefits.

(c) Supplemental security income benefits.

(d) Workers' compensation benefits.

(e) Reemployment assistance or unemployment compensation benefits.

(f) Veterans' benefits.

(g) Retirement benefits.

(h) Temporary cash assistance under chapter 414.

(16) "Working family" means:

(a) A single-parent family in which the parent with whom the child resides is employed or engaged in eligible work or education activities for at least 20 hours per week;

(b) A two-parent family in which both parents with whom the child resides are employed or engaged in eligible work or education activities for a combined total of at least 40 hours per week; or

(c) A two-parent family in which one of the parents with whom the child resides is exempt from work requirements due to age or disability, as determined and documented by a physician licensed under chapter 458 or chapter 459, and one parent is employed or engaged in eligible work or education activities at least 20 hours per week.

History.—s. 17, ch. 2013-252.

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#### **1002.82 Office of Early Learning; powers and duties.—**

(1) For purposes of administration of the Child Care and Development Block Grant Trust Fund, pursuant to 45 C.F.R. parts 98 and 99, the Office of Early Learning is designated as the lead agency and must comply with lead agency responsibilities pursuant to federal law. The office may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any provision of ss. 411.223 and 1003.54 if the waiver is

necessary for implementation of the school readiness program. Section 125.901(2)(a)3. does not apply to the school readiness program.

(2) The office shall:

(a) Focus on improving the educational quality delivered by all providers participating in the school readiness program.

(b) Preserve parental choice by permitting parents to choose from a variety of child care categories, including center-based care, family child care, and informal child care to the extent



authorized in the state's Child Care and Development Fund Plan as approved by the United States Department of Health and Human Services pursuant to 45 C.F.R. s. 98.18. Care and curriculum by a faith-based provider may not be limited or excluded in any of these categories.

(c) Be responsible for the prudent use of all public and private funds in accordance with all legal and contractual requirements, safeguarding the effective use of federal, state, and local resources to achieve the highest practicable level of school readiness for the children described in s. 1002.87, including:

1. The adoption of a uniform chart of accounts for budgeting and financial reporting purposes that provides standardized definitions for expenditures and reporting, consistent with the requirements of 45 C.F.R. part 98 and s. 1002.89 for each of the following categories of expenditure:

- a. Direct services to children.
- b. Administrative costs.
- c. Quality activities.
- d. Nondirect services.

2. Coordination with other state and federal agencies to perform data matches on children participating in the school readiness program and their families in order to verify the children's eligibility pursuant to s. 1002.87.

(d) Establish procedures for the biennial calculation of the average market rate.

(e) Review each early learning coalition's school readiness program plan every 2 years and provide final approval of the plan and any amendments submitted.

(f) Establish a unified approach to the state's efforts to coordinate a comprehensive early learning program. In support of this effort, the office:

1. Shall adopt specific program support services that address the state's school readiness program, including:
  - a. Statewide data information program requirements that include:
    - (I) Eligibility requirements.
    - (II) Financial reports.
    - (III) Program accountability measures.
    - (IV) Child progress reports.
  - b. Child care resource and referral services.
  - c. A single point of entry and uniform waiting list.
2. May provide technical assistance and guidance on additional support services to complement the school readiness program, including:
  - a. Rating and improvement systems.
  - b. Warm-Line services.
  - c. Anti-fraud plans.
  - d. School readiness program standards.
  - e. Child screening and assessments.
  - f. Training and support for parental involvement in children's early education.
  - g. Family literacy activities and services.

(g) Provide technical assistance to early learning coalitions.

(h) In cooperation with the early learning coalitions, coordinate with the Child Care Services Program Office of the Department of Children and Families to reduce paperwork and to avoid duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing.

(i) Develop, in coordination with the Child Care Services Program Office of the Department of Children and Families, and adopt a health and safety checklist to be completed by license-exempt providers that does not exceed the requirements s. 402.305.

(j) Develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. The standards for children from birth to 5 years of age in the school readiness program must be aligned with the performance standards adopted for children in the Voluntary Prekindergarten Education Program and must address the following domains:

1. Approaches to learning.
2. Cognitive development and general knowledge.
3. Numeracy, language, and communication.
4. Physical development.
5. Self-regulation.

(k) Select assessments that are valid, reliable, and developmentally appropriate for use as preassessment and postassessment for the age ranges specified in the coalition plans. The assessments must be designed to measure progress in the domains of the performance standards adopted pursuant to paragraph (j), provide appropriate accommodations for children with disabilities and English language learners, and be administered by qualified individuals, consistent with the publisher's instructions.

(l) Adopt a list of approved curricula that meet the performance standards for the school readiness program and establish a process for the review and approval of a provider's curriculum that meets the performance standards.

(m) Adopt by rule a standard statewide provider contract to be used with each school readiness program provider, with standardized attachments by provider type. The office shall publish a copy of the standard statewide provider contract on its website. The standard statewide contract shall include, at a minimum, provisions for provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of the children. The standard statewide provider contract shall also include appropriate due process procedures. During the pendency of an appeal of a termination, the

provider may not continue to offer its services. Any provision imposed upon a provider that is inconsistent with, or prohibited by, law is void and unenforceable.

(n) Establish a single statewide information system that each coalition must use for the purposes of managing the single point of entry, tracking children's progress, coordinating services among stakeholders, determining eligibility of children, tracking child attendance, and streamlining administrative processes for providers and early learning coalitions.

(o) Adopt by rule standardized procedures for coalitions to use when monitoring the compliance of school readiness program providers with the terms of the standard statewide provider contract.

(p) Monitor and evaluate the performance of each early learning coalition in administering the school readiness program, ensuring proper payments for school readiness program services, implementing the coalition's school readiness program plan, and administering the Voluntary Prekindergarten Education Program. These monitoring and performance evaluations must include, at a minimum, onsite monitoring of each coalition's finances, management, operations, and programs.

(q) Work in conjunction with the Bureau of Federal Education Programs within the Department of Education to coordinate readiness and voluntary prekindergarten services to the populations served by the bureau.

(r) Administer a statewide toll-free Warm-Line to provide assistance and consultation to child care facilities and family day care homes regarding health, developmental, disability, and special needs issues of the children they are serving, particularly children with disabilities and other special needs. The office shall:

1. Annually inform child care facilities and family day care homes of the availability of this service through the child care resource and referral network under s. 1002.92.

2. Expand or contract for the expansion of the Warm-Line to maintain at least one Warm-Line in each early learning coalition service area.

3. If the office determines during the review of school readiness program plans, or through monitoring and performance evaluations conducted under s. 1002.85, that an early learning coalition has not substantially implemented its plan, has not substantially met the performance standards and outcome measures adopted by the office, or has not effectively administered the school readiness program or Voluntary Prekindergarten Education Program, the office may temporarily contract with a qualified entity to continue school readiness program and prekindergarten services in the coalition's county or multicounty region until the office reestablishes the coalition and a new school readiness program plan is approved in accordance with

the rules adopted by the office.

(4) The office may request the Governor to apply for a waiver to allow a coalition to administer the Head Start Program to accomplish the purposes of the school readiness program.

(5) By January 1 of each year, the office shall annually publish on its website a report of its activities conducted under this section. The report must include a summary of the coalitions' annual reports, a statewide summary, and the following:

- (a) An analysis of early learning activities throughout the state, including the school readiness program and the Voluntary Prekindergarten Education Program.

1. The total and average number of children served in the school readiness program, enumerated by age, eligibility priority category, and coalition, and the total number of children served in the Voluntary Prekindergarten Education Program.

2. A summary of expenditures by coalition, by fund source, including a breakdown by coalition of the percentage of expenditures for administrative activities, quality activities, nondirect services, and direct services for children.

3. A description of the office's and each coalition's expenditures by fund source for the quality and enhancement activities described in s. 1002.89(6)(b).

4. A summary of annual findings and collections related to provider fraud and parent fraud.

5. Data regarding the coalitions' delivery of early learning programs.

6. The total number of children disenrolled statewide and the reason for disenrollment.

7. The total number of providers by provider type.

8. The total number of provider contracts revoked and the reasons for revocation.

- (b) A summary of the activities and detailed expenditures related to the Child Care Executive Partnership Program.

- (6)(a) Parental choice of child care providers, including private and faith-based providers, shall be established to the maximum extent practicable in accordance with 45 C.F.R. s. 98.30.

- (b) As used in this subsection, the term "payment certificate" means a child care certificate as defined in 45 C.F.R. s. 98.2.

- (c) The school readiness program shall, in accordance with 45 C.F.R. s. 98.30, provide parental choice through a payment certificate that provides, to the maximum extent possible, flexibility in the school readiness program and payment arrangements. The payment certificate must bear the names of the beneficiary and the program provider and, when redeemed, must bear the signatures of both the beneficiary and an authorized representative of the provider.

- (d) If it is determined that a provider has given any cash or other consideration to the benefi-

ciary in return for receiving a payment certificate, the early learning coalition or its fiscal agent shall refer the matter to the Department of Financial Services pursuant to s. 414.411 for investigation.

(7) Participation in the school readiness program does not expand the regulatory authority of the state, its officers, or an early learning

coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements set forth in this part and part V of this chapter.

History.—s. 17, ch. 2013-252.

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### 1002.83 Early learning coalitions.—

(1) Thirty-one or fewer early learning coalitions are established and shall maintain direct enhancement services at the local level and provide access to such services in all 67 counties. Two or more early learning coalitions may join for purposes of planning and implementing a school readiness program and the Voluntary Prekindergarten Education Program.

(2) Each early learning coalition shall be composed of at least 15 members but not more than 30 members.

(3) The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private sector business members appointed by the coalition under subsection (5).

(4) Each early learning coalition must include the following member positions; however, in a multicounty coalition, each ex officio member position may be filled by multiple nonvoting members but no more than one voting member shall be seated per member position. If an early learning coalition has more than one member representing the same entity, only one of such members may serve as a voting member:

(a) A Department of Children and Families regional administrator or his or her permanent designee who is authorized to make decisions on behalf of the department.

(b) A district superintendent of schools or his or her permanent designee who is authorized to make decisions on behalf of the district.

(c) A regional workforce board executive director or his or her permanent designee.

(d) A county health department director or his or her designee.

(e) A children's services council or juvenile welfare board chair or executive director, if applicable.

(f) An agency head of a local licensing agency as defined in s. 402.302, where applicable.

(g) A president of a Florida College System institution or his or her permanent designee.

(h) One member appointed by a board of county commissioners or the governing board of a municipality.

(i) A Head Start director.

(j) A representative of private for-profit child care providers, including private for-profit family day care homes.

(k) A representative of faith-based child care

providers.

(l) A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act.

(m) A central agency administrator, where applicable.

(5) Including the members appointed by the Governor under subsection (3), more than one-third of the members of each early learning coalition must be private sector business members, either for-profit or nonprofit, who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of this chapter or the school readiness program. To meet this requirement, an early learning coalition must appoint additional members. The office shall establish criteria for appointing private sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the school readiness program.

(6) A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition. An early learning coalition may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

(7) A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this subsection. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a regional administrator for the Department of Children and Families appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

(8) Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

(9) For purposes of tort liability, each member or employee of an early learning coalition shall

be governed by s. 768.28.

(10) An early learning coalition serving a multicounty region must include representation from each county.

(11) Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Coalition chairs shall be appointed for 4 years in conjunction with their membership on the Early Learning Advisory Council pursuant to s. 20.052. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

(12) State, federal, and local matching funds provided to the early learning coalitions may not be used directly or indirectly to pay for meals, food, or beverages for coalition members, coalition employees, or subcontractor employees. Preapproved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed. Such reimbursement shall be at the standard travel

reimbursement rates established in s. 112.061 and must comply with applicable federal and state requirements.

(13) Each early learning coalition shall use a coordinated professional development system that supports the achievement and maintenance of core competencies by school readiness program teachers in helping children attain the performance standards adopted by the office.

(14) Each school district shall, upon request of the coalition, make a list of all individuals currently eligible to act as a substitute teacher within the school district, pursuant to rules adopted by the school district pursuant to s. 1012.35, available to an early learning coalition serving students within the school district. Child care facilities as defined in s. 402.302 may employ individuals listed as substitute instructors for the purpose of offering the school readiness program, the Voluntary Prekindergarten Education Program, and all other legally operating child care programs.

History.—s. 17, ch. 2013-252; s. 177, ch. 2014-17.

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**1002.84 Early learning coalitions; school readiness powers and duties.**—Each early learning coalition shall:

(1) Administer and implement a local comprehensive program of school readiness program services in accordance with this part and the rules adopted by the office, which enhances the cognitive, social, and physical development of children to achieve the performance standards.

(2) Establish a uniform waiting list to track eligible children waiting for enrollment in the school readiness program in accordance with rules adopted by the office.

(3) Establish a resource and referral network operating under s. 1002.92 to assist parents in making an informed choice and provide maximum parental choice of providers and to provide information on available community resources.

(4) Establish a regional Warm-Line as directed by the office pursuant to s. 1002.82(2)(r). Regional Warm-Line staff shall provide onsite technical assistance, when requested, to assist child care facilities and family day care homes with inquiries relating to the strategies, curriculum, and environmental adaptations the child care facilities and family day care homes may need as they serve children with disabilities and other special needs.

(5) Establish an age-appropriate screening, for children ages birth to 5 years, of each child's development and an appropriate referral process for children with identified delays. Such screening shall not be a requirement of entry into the school readiness program and shall be only given with parental consent.

(6) Implement an age-appropriate preassessment and postassessment of children if specified in

the coalition's approved plan.

(7) Determine child eligibility pursuant to s. 1002.87 and provider eligibility pursuant to s. 1002.88. At a minimum, child eligibility must be redetermined annually. Redetermination must also be conducted twice per year for an additional 50 percent of a coalition's enrollment through a statistically valid random sampling. A coalition must document the reason why a child is no longer eligible for the school readiness program according to the standard codes prescribed by the office.

(8) Establish a parent sliding fee scale that requires a parent copayment to participate in the school readiness program. Providers are required to collect the parent's copayment. A coalition may, on a case-by-case basis, waive the copayment for an at-risk child or temporarily waive the copayment for a child whose family experiences a natural disaster or an event that limits the parent's ability to pay, such as incarceration, placement in residential treatment, or becoming homeless, or an emergency situation such as a household fire or burglary, or while the parent is participating in parenting classes. A parent may not transfer school readiness program services to another school readiness program provider until the parent has submitted documentation from the current school readiness program provider to the early learning coalition stating that the parent has satisfactorily fulfilled the copayment obligation.

(9) Establish proper maintenance of records related to eligibility and enrollment files, provider payments, coalition staff background screenings, and other documents required for the implementation of the school readiness program.

(10) Establish a records retention require-

ment for sign-in and sign-out records that is consistent with state and federal law. Attendance records may not be altered or amended after December 31 of the subsequent year.

(11) Follow the tangible personal property requirements of chapter 274 and rules adopted under that chapter.

(12) Comply with federal procurement requirements and the procurement requirements of ss. 215.971, 287.057, and 287.058, except that an early learning coalition is not required to competitively procure direct services for school readiness program and Voluntary Prekindergarten Education Program providers.

(13) Establish proper information technology security controls, including, but not limited to, periodically reviewing the appropriateness of access privileges assigned to users of certain systems; monitoring system hardware performance and capacity-related issues; and ensuring appropriate backup procedures and disaster recovery plans are in place.

(14) Develop written policies, procedures, and standards for monitoring vendor contracts, including, but not limited to, provisions specifying the particular procedures that may be used to evaluate contractor performance and the documentation that is to be maintained to serve as a record of contractor performance. This subsection does not apply to contracts with school readiness program providers or Voluntary Prekindergarten Education Program providers.

(15) Monitor school readiness program providers in accordance with its plan, or in response to a parental complaint, to verify that the standards prescribed in ss. 1002.82 and 1002.88 are being met using a standard monitoring tool adopted by the office. Providers determined to be high-risk by the coalition, as demonstrated by substantial findings of violations of federal law or the general or local laws of the state, shall be monitored more frequently. Providers with 3 consecutive years of compliance may be monitored biennially.

(16) Adopt a payment schedule that encompasses all programs funded under this part and part V of this chapter. The payment schedule must take into consideration the average market rate, include the projected number of children to be served, and be submitted for approval by the office. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate adopted for a family day care home.

(17) Implement an anti-fraud plan addressing the detection, reporting, and prevention of overpayments, abuse, and fraud relating to the provision of and payment for school readiness program and Voluntary Prekindergarten Education Program services and submit the plan to the office for approval, as required by s. 1002.91.

(18) By October 1 of each year, submit an

annual report to the office. The report shall conform to the format adopted by the office and must include:

(a) Segregation of school readiness program funds, Voluntary Prekindergarten Education Program funds, Child Care Executive Partnership Program funds, and other local revenues available to the coalition.

(b) Details of expenditures by fund source, including total expenditures for administrative activities, quality activities, nondirect services, and direct services for children.

(c) The total number of coalition staff and the related expenditures for salaries and benefits. For any subcontracts, the total number of contracted staff and the related expenditures for salaries and benefits must be included.

(d) The number of children served in the school readiness program, by provider type, enumerated by age and eligibility priority category, reported as the number of children served during the month, the average participation throughout the month, and the number of children served during the month.

(e) The total number of children disenrolled during the year and the reasons for disenrollment.

(f) The total number of providers by provider type.

(g) A listing of any school readiness program provider, by type, whose eligibility to deliver the school readiness program is revoked, including a brief description of the state or federal violation that resulted in the revocation.

(h) An evaluation of its direct enhancement services.

(i) The total number of children served in each provider facility.

(19) Maintain its administrative staff at the minimum necessary to administer the duties of the early learning coalition.

(20) To increase transparency and accountability, comply with the requirements of this section before contracting with a member of the coalition or a relative, as defined in s. 112.3143(1) (c), of a coalition member or of an employee of the coalition. Such contracts may not be executed without the approval of the office. Such contracts, as well as documentation demonstrating adherence to this section by the coalition, must be approved by a two-thirds vote of the coalition, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote. A contract under \$25,000 between an early learning coalition and a member of that coalition or between a relative, as defined in s. 112.3143(1) (c), of a coalition member or of an employee of the coalition is not required to have the prior approval of the office but must be approved by a two-



thirds vote of the coalition, a quorum having been established, and must be reported to the office within 30 days after approval. If a contract cannot be approved by the office, a review of the decision

to disapprove the contract may be requested by the early learning coalition or other parties to the disapproved contract.

History.—s. 17, ch. 2013-252; s. 178, ch. 2014-17.

#### **1002.85 Early learning coalition plans.—**

(1) The office shall adopt rules prescribing the standardized format and required content of school readiness program plans as necessary for a coalition or other qualified entity to administer the school readiness program as provided in this part.

(2) Each early learning coalition must biennially submit a school readiness program plan to the office before the expenditure of funds. A coalition may not implement its school readiness program plan until it receives approval from the office. A coalition may not implement any revision to its school readiness program plan until the coalition submits the revised plan to and receives approval from the office. If the office rejects a plan or revision, the coalition must continue to operate under its previously approved plan. The plan must include, but is not limited to:

(a) The coalition's operations, including its membership and business organization, and the coalition's articles of incorporation and bylaws if the coalition is organized as a corporation. If the coalition is not organized as a corporation or other business entity, the plan must include the contract with a fiscal agent.

(b) The minimum number of children to be served by care level.

(c) The coalition's procedures for implementing the requirements of this part, including:

1. Single point of entry.
2. Uniform waiting list.
3. Eligibility and enrollment processes.
4. Parent access and choice.

5. Sliding fee scale and policies on applying the waiver or reduction of fees in accordance with s. 1002.84(8).

6. Use of preassessments and postassessments, as applicable.

7. Payment rate.

(d) A detailed description of the coalition's quality activities and services, including:

1. Resource and referral and school-age child care.

2. Infant and toddler early learning.

3. Inclusive early learning programs.

(e) A detailed budget that outlines estimated expenditures for state, federal, and local matching funds at the lowest level of detail available by other-cost-accumulator code number; all estimated sources of revenue with identifiable descriptions; a listing of full-time equivalent positions; contracted subcontractor costs with related annual compensation amount or hourly rate of compensation; and a capital improvements plan outlining existing fixed capital outlay projects and proposed capital outlay projects that will begin during the budget year.

(f) A detailed accounting, in the format prescribed by the office, of all revenues and expenditures during the previous state fiscal year. Revenue sources should be identifiable, and expenditures should be reported by three categories: state and federal funds, local matching funds, and Child Care Executive Partnership Program funds.

(g) Updated policies and procedures, including those governing procurement, maintenance of tangible personal property, maintenance of records, information technology security, and disbursement controls.

(h) A description of the procedures for monitoring school readiness program providers, including in response to a parental complaint, to determine that the standards prescribed in ss. 1002.82 and 1002.88 are met using a standard monitoring tool adopted by the office. Providers determined to be high risk by the coalition as demonstrated by substantial findings of violations of law shall be monitored more frequently.

(i) Documentation that the coalition has solicited and considered comments regarding the proposed school readiness program plan from the local community.

(3) The coalition may periodically amend its plan as necessary. An amended plan must be submitted to and approved by the office before any expenditures are incurred on the new activities proposed in the amendment.

(4) The office shall publish a copy of the standardized format and required content of school readiness program plans on its website.

(5) The office shall collect and report data on coalition delivery of early learning programs. Elements shall include, but are not limited to, measures related to progress towards reducing the number of children on the waiting list, the percentage of children served by the program as compared to the number of administrative staff and overhead, the percentage of children served compared to total number of children under the age of 5 years below 150 percent of the federal poverty level, provider payment processes, fraud intervention, child attendance and stability, use of child care resource and referral, and kindergarten readiness outcomes for children in the Voluntary Prekindergarten Education Program or the school readiness program upon entry into kindergarten. The office shall request input from the coalitions and school readiness program providers before finalizing the format and data to be used. The report shall be implemented beginning July 1, 2014, and results of the report must be included in the annual report under s. 1002.82.

History.—s. 17, ch. 2013-252.

**1002.86 School readiness program; education component.**—The education component of the school readiness program should be developmentally appropriate and based on research, involve the parent as the child's first teacher, serve as a preventive measure for children at risk of future school failure, and enhance the educational

readiness of eligible children. The school readiness program should be of assistance to parents in preparing their at-risk children for educational success, including, as appropriate, health screening and referral.

History.—s. 17, ch. 2013-252.

**1002.87 School readiness program; eligibility and enrollment.**—

(1) Effective August 1, 2013, or upon reevaluation of eligibility for children currently served, whichever is later, each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements.

(b) Priority shall be given next to an at-risk child younger than 9 years of age.

(c) Priority shall be given next to a child from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. who is from a working family that is economically disadvantaged, and may include such child's eligible siblings, beginning with the school year in which the sibling is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. until the beginning of the school year in which the sibling is eligible to begin 6th grade, provided that the first priority for funding an eligible sibling is local revenues available to the coalition for funding direct services. However, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.

(d) Priority shall be given next to a child of a parent who transitions from the work program into employment as described in s. 445.032 from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(e) Priority shall be given next to an at-risk child who is at least 9 years of age but younger than 13 years of age. An at-risk child whose sibling is enrolled in the school readiness program within an eligibility priority category listed in paragraphs (a)-(c) shall be given priority over other children who are eligible under this paragraph.

(f) Priority shall be given next to a child who is younger than 13 years of age from a working family that is economically disadvantaged. A child who is eligible under this paragraph whose sibling is enrolled in the school readiness program under paragraph (c) shall be given priority over other children who are eligible under this paragraph. How-

ever, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.

(g) Priority shall be given next to a child of a parent who transitions from the work program into employment as described in s. 445.032 who is younger than 13 years of age.

(h) Priority shall be given next to a child who has special needs, has been determined eligible as a student with a disability, has a current individual education plan with a Florida school district, and is not younger than 3 years of age. A special needs child eligible under this paragraph remains eligible until the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(i) Notwithstanding paragraphs (a)-(d), priority shall be given last to a child who otherwise meets one of the eligibility criteria in paragraphs (a)-(d) but who is also enrolled concurrently in the federal Head Start Program and the Voluntary Prekindergarten Education Program.

(2) A school readiness program provider may be paid only for authorized hours of care provided for a child in the school readiness program. A child enrolled in the Voluntary Prekindergarten Education Program may receive care from the school readiness program if the child is eligible according to the eligibility priorities in this section.

(3) Contingent upon the availability of funds, a coalition shall enroll eligible children, including those from its waiting list, according to the eligibility priorities in this section.

(4) The parent of a child enrolled in the school readiness program must notify the coalition or its designee within 10 days after any change in employment, income, or family size. Upon notification by the parent, the child's eligibility must be reevaluated.

(5) A child whose eligibility priority category requires the child to be from a working family ceases to be eligible for the school readiness program if a parent with whom the child resides does not reestablish employment within 60 days after becoming unemployed.

(6) Eligibility for each child must be reevaluated annually. Upon reevaluation, a child may not continue to receive school readiness program services if he or she has ceased to be eligible under this section.

(7) If a coalition disenrolls children from the school readiness program, the coalition must

disenroll the children in reverse order of the eligibility priorities listed in subsection (1) beginning with children from families with the highest family incomes. A notice of disenrollment must be sent to the parent and school readiness program provider at least 2 weeks before disenrollment to provide adequate time for the parent to arrange alternative care for the child. However, an at-risk child may not be disenrolled from the program without the written approval of the Child Welfare Program Office of the Department of Children and Families or the community-based lead agency.

(8) If a child is absent from the program for 5 consecutive days without parental notification to

the program of such absence, the school readiness program provider shall report the absence to the early learning coalition for a determination of the need for continued care.

(9) Notwithstanding s. 39.604, a school readiness program provider, regardless of whether the provider is licensed, shall comply with the reporting requirements of the Rilya Wilson Act for each at-risk child under the age of school entry who is enrolled in the school readiness program.

History.—s. 17, ch. 2013-252.

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**1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—**

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(a) Be a child care facility licensed under s. 402.305, a family day care home licensed or registered under s. 402.313, a large family child care home licensed under s. 402.3131, a public school or nonpublic school exempt from licensure under s. 402.3025, a faith-based child care provider exempt from licensure under s. 402.316, a before-school or after-school program described in s. 402.305(1) (c), or an informal child care provider to the extent authorized in the state's Child Care and Development Fund Plan as approved by the United States Department of Health and Human Services pursuant to 45 C.F.R. s. 98.18.

(b) Provide instruction and activities to enhance the age-appropriate progress of each child in attaining the child development standards adopted by the office pursuant to s. 1002.82(2)(j). A provider should include activities to foster brain development in infants and toddlers; provide an environment that is rich in language and music and filled with objects of various colors, shapes, textures, and sizes to stimulate visual, tactile, auditory, and linguistic senses; and include 30 minutes of reading to children each day.

(c) Provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children enrolled in the school readiness program. For a child care facility, a large family child care home, or a licensed family day care home, compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies this requirement. For a public or nonpublic school, compliance with s. 402.3025 or s. 1003.22 satisfies this requirement. A faith-based child care provider, an informal child care provider, or a nonpublic school, exempt from licensure under s. 402.316 or s. 402.3025, shall annually complete the health and safety checklist adopted by the office, post the checklist prominently on its premises in

plain sight for visitors and parents, and submit it annually to its local early learning coalition.

(d) Provide an appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(8) or (11), as applicable, and as verified pursuant to s. 402.311.

(e) Provide a healthy and safe environment pursuant to s. 402.305(5), (6), and (7), as applicable, and as verified pursuant to s. 402.311.

(f) Implement one of the curricula approved by the office that meets the child development standards.

(g) Implement a character development program to develop basic values.

(h) Collaborate with the respective early learning coalition to complete initial screening for each child, aged 6 weeks to kindergarten eligibility, within 45 days after the child's first or subsequent enrollment, to identify a child who may need individualized supports.

(i) Implement minimum standards for child discipline practices that are age-appropriate and consistent with the requirements in s. 402.305(12). Such standards must provide that children not be subjected to discipline that is severe, humiliating, or frightening or discipline that is associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(j) Obtain and keep on file record of the child's immunizations, physical development, and other health requirements as necessary, including appropriate vision and hearing screening and examination, within 30 days after enrollment.

(k) Implement before-school or after-school programs that meet or exceed the requirements of s. 402.305(5), (6), and (7).

(l) For a provider that is not an informal provider, maintain general liability insurance and provide the coalition with written evidence of general liability insurance coverage, including coverage for transportation of children if school readiness program children are transported by the provider. A provider must obtain and retain an insurance policy that provides a minimum of \$100,000 of coverage per occurrence and a minimum of \$300,000 general

aggregate coverage. The office may authorize lower limits upon request, as appropriate. A provider must add the coalition as a named certificateholder and as an additional insured. A provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider contract with the coalition.

(m) For a provider that is an informal provider, comply with the provisions of paragraph (l) or maintain homeowner's liability insurance and, if applicable, a business rider. If an informal provider chooses to maintain a homeowner's policy, the provider must obtain and retain a homeowner's insurance policy that provides a minimum of \$100,000 of coverage per occurrence and a minimum of \$300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. An informal provider must add the coalition as a named certificateholder and as an additional insured. An informal provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider's contract with the coalition.

(n) Obtain and maintain any required workers' compensation insurance under chapter 440 and any required reemployment assistance or unemployment compensation coverage under chapter 443.

(o) Notwithstanding paragraph (l), for a provider that is a state agency or a subdivision

thereof, as defined in s. 768.28(2), agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

(p) Execute the standard statewide provider contract adopted by the office.

(q) Operate on a full-time and part-time basis and provide extended-day and extended-year services to the maximum extent possible without compromising the quality of the program to meet the needs of parents who work.

(2) If a school readiness program provider fails or refuses to comply with this part or any contractual obligation of the statewide provider contract under s. 1002.82(2)(m), the coalition may revoke the provider's eligibility to deliver the school readiness program or receive state or federal funds under this chapter for a period of 5 years.

(3) The office and the coalitions may not:

(a) Impose any requirement on a child care provider or early childhood education provider that does not deliver services under the school readiness program or receive state or federal funds under this part;

(b) Impose any requirement on a school readiness program provider that exceeds the authority provided under this part or part V of this chapter or rules adopted pursuant to this part or part V of this chapter; or

(c) Require a provider to administer a preassessment or postassessment.

History.—s. 17, ch. 2013-252.

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#### **1002.89 School readiness program; funding.—**

(1) Funding for the school readiness program shall be allocated among the early learning coalitions in accordance with this section and the General Appropriations Act.

(2) The office shall administer school readiness program funds and prepare and submit a unified budget request for the school readiness program in accordance with chapter 216.

(3) All instructions to early learning coalitions for administering this section shall emanate from the office in accordance with the policies of the Legislature.

(4) All cost savings and all revenues received through a mandatory sliding fee scale shall be used to increase the number of children served.

(5) All state, federal, and local matching funds provided to an early learning coalition for purposes of this section shall be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.

(6) Costs shall be kept to the minimum neces-

sary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children. However, no more than 5 percent of the funds described in subsection (5) may be used for administrative costs and no more than 22 percent of the funds described in subsection (5) may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services as follows:

(a) Administrative costs as described in 45 C.F.R. s. 98.52, which shall include monitoring providers using the standard methodology adopted under s. 1002.82 to improve compliance with state and federal regulations and law pursuant to the requirements of the statewide provider contract adopted under s. 1002.82(2)(m).

(b) Activities to improve the quality of child care as described in 45 C.F.R. s. 98.51, which shall be limited to the following:

1. Developing, establishing, expanding, operating, and coordinating resource and referral programs specifically related to the provision

of comprehensive consumer education to parents and the public regarding participation in the school readiness program and parental choice.

2. Awarding grants to school readiness program providers to assist them in meeting applicable state requirements for child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, and providing professional development. Any grants awarded pursuant to this subparagraph shall comply with the requirements of ss. 215.971 and 287.058.

3. Providing training and technical assistance for school readiness program providers, staff, and parents on standards, child screenings, child assessments, developmentally appropriate curricula, character development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, the recognition of communicable diseases, and child abuse detection and prevention.

4. Providing from among the funds provided for the activities described in subparagraphs 1.-3., adequate funding for infants and toddlers as necessary to meet federal requirements related to expenditures for quality activities for infant and toddler care.

5. Improving the monitoring of compliance with, and enforcement of, applicable state and local requirements as described in and limited by 45 C.F.R. s. 98.40.

6. Responding to Warm-Line requests by providers and parents related to school readiness program children, including providing develop-

mental and health screenings to school readiness program children.

(c) Nondirect services as described in applicable Office of Management and Budget instructions are those services not defined as administrative, direct, or quality services that are required to administer the school readiness program. Such services include, but are not limited to:

1. Assisting families to complete the required application and eligibility documentation.
2. Determining child and family eligibility.
3. Recruiting eligible child care providers.
4. Processing and tracking attendance records.
5. Developing and maintaining a statewide child care information system.

As used in this paragraph, the term “nondirect services” does not include payments to school readiness program providers for direct services provided to children who are eligible under s. 1002.87, administrative costs as described in paragraph (a), or quality activities as described in paragraph (b).

(7) Funds appropriated for the school readiness program may not be expended for the purchase or improvement of land; for the purchase, construction, or permanent improvement of any building or facility; or for the purchase of buses. However, funds may be expended for minor remodeling and upgrading of child care facilities to ensure that providers meet state and local child care standards, including applicable health and safety requirements.

History.—s. 17, ch. 2013-252.

Note.—The word “of” was added by the editors to improve clarity.

**1002.895 Market rate schedule.**—The school readiness program market rate schedule shall be implemented as follows:

(1) The office shall establish procedures for the adoption of a market rate schedule. The schedule must include, at a minimum, county-by-county rates:

(a) The market rate, including the minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care designation under s. 402.281.

(b) The market rate for child care providers that do not hold a Gold Seal Quality Care designation.

(2) The market rate schedule, at a minimum, must:

(a) Differentiate rates by type, including, but not limited to, a child care provider that holds a Gold Seal Quality Care designation under s. 402.281, a child care facility licensed under s. 402.305, a public or nonpublic school exempt from licensure under s. 402.3025, a faith-based child care facility exempt from licensure under s. 402.316 that does not hold a Gold Seal Quality

Care designation, a large family child care home licensed under s. 402.3131, or a family day care home licensed or registered under s. 402.313.

(b) Differentiate rates by the type of child care services provided for children with special needs or risk categories, infants, toddlers, pre-school-age children, and school-age children.

(c) Differentiate rates between full-time and part-time child care services.

(d) Consider discounted rates for child care services for multiple children in a single family.

(3) The market rate schedule must be based exclusively on the prices charged for child care services.

(4) The market rate schedule shall be considered by an early learning coalition in the adoption of a payment schedule. The payment schedule must take into consideration the average market rate, include the projected number of children to be served, and be submitted for approval by the office. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate adopted for a family day care home.

(5) The office may contract with one or more



qualified entities to administer this section and provide support and technical assistance for child care providers.

(6) The office may adopt rules for establishing procedures for the collection of child care providers' market rate, the calculation of the aver-

age market rate by program care level and provider type in a predetermined geographic market, and the publication of the market rate schedule.

History.—s. 17, ch. 2013-252.

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**1002.91 Investigations of fraud or overpayment; penalties.—**

(1) As used in this subsection, the term “fraud” means an intentional deception, omission, or misrepresentation made by a person with knowledge that the deception, omission, or misrepresentation may result in unauthorized benefit to that person or another person, or any aiding and abetting of the commission of such an act. The term includes any act that constitutes fraud under applicable federal or state law.

(2) To recover state, federal, and local matching funds, the office shall investigate early learning coalitions, recipients, and providers of the school readiness program and the Voluntary Prekindergarten Education Program to determine possible fraud or overpayment. If by its own inquiries, or as a result of a complaint, the office has reason to believe that a person, coalition, or provider has engaged in, or is engaging in, a fraudulent act, it shall investigate and determine whether any overpayment has occurred due to the fraudulent act. During the investigation, the office may examine all records, including electronic benefits transfer records, and make inquiry of all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys or other items or benefits authorizations to recipients.

(3) Based on the results of the investigation, the office may, in its discretion, refer the investigation to the Department of Financial Services for criminal investigation or refer the matter to the applicable coalition. Any suspected criminal violation identified by the office must be referred to the Department of Financial Services for criminal investigation.

(4) An early learning coalition may suspend or terminate a provider from participation in the school readiness program or the Voluntary Prekindergarten Education Program when it has reasonable cause to believe that the provider has committed fraud. The office shall adopt by rule appropriate due process procedures that the early learning coalition shall apply in suspending or terminating any provider, including the suspension or termination of payment. If suspended, the provider shall remain suspended until the completion of any investigation by the office, the Department of Financial Services, or any other state or federal agency, and any subsequent prosecution or other legal proceeding.

(5) If a school readiness program provider or a Voluntary Prekindergarten Education Program

provider, or an owner, officer, or director thereof, is convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, or is acting as the beneficial owner for someone who has been convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39, the early learning coalition shall refrain from contracting with, or using the services of, that provider for a period of 5 years. In addition, the coalition shall refrain from contracting with, or using the services of, any provider that shares an officer or director with a provider that is convicted of, found guilty of, or pleads guilty or nolo contendere to, regardless of adjudication, public assistance fraud pursuant to s. 414.39 for a period of 5 years.

(6) If the investigation is not confidential or otherwise exempt from disclosure by law, the results of the investigation may be reported by the office to the appropriate legislative committees, the Department of Children and Families, and such other persons as the office deems appropriate.

(7) The early learning coalition may not contract with a school readiness program provider or a Voluntary Prekindergarten Education Program provider who is on the United States Department of Agriculture National Disqualified List. In addition, the coalition may not contract with any provider that shares an officer or director with a provider that is on the United States Department of Agriculture National Disqualified List.

(8) Each early learning coalition shall adopt an anti-fraud plan addressing the detection and prevention of overpayments, abuse, and fraud relating to the provision of and payment for school readiness program and Voluntary Prekindergarten Education Program services and submit the plan to the office for approval. The office shall adopt rules establishing criteria for the anti-fraud plan, including appropriate due process provisions. The anti-fraud plan must include, at a minimum:

(a) A written description or chart outlining the organizational structure of the plan's personnel who are responsible for the investigation and reporting of possible overpayment, abuse, or fraud.

(b) A description of the plan's procedures for detecting and investigating possible acts of fraud, abuse, or overpayment.

(c) A description of the plan's procedures for the mandatory reporting of possible overpayment, abuse, or fraud to the Office of Inspector General within the office.

(d) A description of the plan's program and procedures for educating and training personnel on how to detect and prevent fraud, abuse, and overpayment.

(e) A description of the plan's procedures, including the appropriate due process provisions adopted by the office for suspending or terminating from the school readiness program or the Voluntary

Prekindergarten Education Program a recipient or provider who the early learning coalition believes has committed fraud.

(9) A person who commits an act of fraud as defined in this section is subject to the penalties provided in s. 414.39(5)(a) and (b).

History.—s. 17, ch. 2013-252.

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#### **1002.92 Child care and early childhood resource and referral.—**

(1) As a part of the school readiness program, the office shall establish a statewide child care resource and referral network that is unbiased and provides referrals to families for child care and information on available community resources. Preference shall be given to using early learning coalitions as the child care resource and referral agencies. If an early learning coalition cannot comply with the requirements to offer the resource information component or does not want to offer that service, the early learning coalition shall select the resource and referral agency for its county or multicounty region based upon the procurement requirements of s. 1002.84(12).

(2) At least one child care resource and referral agency must be established in each early learning coalition's county or multicounty region. The office shall adopt rules regarding accessibility of child care resource and referral services offered through child care resource and referral agencies in each county or multicounty region which include, at a minimum, required hours of operation, methods by which parents may request services, and child care resource and referral staff training requirements.

(3) Child care resource and referral agencies shall provide the following services:

(a) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services through the single statewide information system developed by the office under s. 1002.82(2)(n). These services may include family day care, public and private child care programs, the Voluntary Prekindergarten Education Program, Head Start, the school readiness program, special education programs for prekindergarten children with disabilities, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the temporary cash assistance program, and related family support services. The resource file shall include, but not be limited to:

1. Type of program.
2. Hours of service.
3. Ages of children served.
4. Number of children served.

5. Program information.

6. Fees and eligibility for services.

7. Availability of transportation.

(b) Establishment of a referral process that responds to parental need for information and that is provided with full recognition of the confidentiality rights of parents. The resource and referral network shall make referrals to legally operating child care facilities. Referrals may not be made to a child care facility that is operating illegally.

(c) Maintenance of ongoing documentation of requests for service tabulated through the internal referral process through the single statewide information system. The following documentation of requests for service shall be maintained by the child care resource and referral network:

1. Number of calls and contacts to the child care resource information and referral network component by type of service requested.

2. Ages of children for whom service was requested.

3. Time category of child care requests for each child.

4. Special time category, such as nights, weekends, and swing shift.

5. Reason that the child care is needed.

6. Name of the employer and primary focus of the business for an employer-based child care program.

(d) Provision of technical assistance to existing and potential providers of child care services. This assistance may include:

1. Information on initiating new child care services, zoning, and program and budget development and assistance in finding such information from other sources.

2. Information and resources which help existing child care services providers to maximize their ability to serve children and parents in their community.

3. Information and incentives that may help existing or planned child care services offered by public or private employers seeking to maximize their ability to serve the children of their working parent employees in their community, through contractual or other funding arrangements with businesses.

(e) Assistance to families and employers in applying for various sources of subsidy, including, but not limited to, the Voluntary Prekindergarten Education Program, the school readiness program,

Head Start, Project Independence, private scholarships, and the federal child and dependent care tax credit.

(f) Assistance to families to negotiate discounts or other special arrangements with child care providers.

(g) Assistance to families in identifying summer recreation camp and summer day camp programs to help families make informed choices. Contingent upon specific appropriation, a checklist of important health and safety qualities that parents can use to choose their summer camp programs shall be developed and distributed in a manner that will reach parents interested in such programs for their children.

(h) Assistance to families for accessing local community resources.

(4) A child care facility licensed under s. 402.305 and licensed and registered family day care homes must provide the statewide child care and resource and referral network with the following information annually:

- (a) Type of program.
- (b) Hours of service.
- (c) Ages of children served.
- (d) Fees and eligibility for services.

History.—s. 17, ch. 2013-252.

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#### **1002.93 School readiness program transportation services.—**

(1) The office may authorize an early learning coalition to establish school readiness program transportation services for children at risk of abuse or neglect who are participating in the school readiness program, pursuant to chapter 427. The early learning coalitions may contract for the provision of transportation services as required by this section.

(2) The transportation servicers may only provide transportation to each child participat-

ing in the school readiness program to the extent that such transportation is necessary to provide child care opportunities that otherwise would not be available to a child whose home is more than a reasonable walking distance from the nearest child care facility or family day care home.

History.—s. 17, ch. 2013-252.

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#### **1002.94 Child Care Executive Partnership Program.—**

(1) There is created a body politic and corporate known as the Child Care Executive Partnership which shall establish and govern the Child Care Executive Partnership Program. The purpose of the Child Care Executive Partnership Program is to use state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The Child Care Executive Partnership Program funds shall be used at the discretion of local communities to meet the needs of working parents. A child care purchasing pool shall be developed with the state, federal, and local funds to provide subsidies to low-income working parents whose family income does not exceed the allowable income for any federally subsidized child care program with a dollar-for-dollar match from employers, local government, and other matching contributions. The funds used from the child care purchasing pool must be used to supplement or extend the use of existing public or private funds for direct services.

(2) The Child Care Executive Partnership, staffed by the office, shall consist of a representative of the Executive Office of the Governor and nine members of the corporate or child care community, appointed by the Governor.

(a) Members shall serve for a period of

4 years, except that the representative of the Executive Office of the Governor shall serve at the pleasure of the Governor.

(b) The Child Care Executive Partnership shall be chaired by a member chosen by a majority vote and shall meet at least quarterly and at other times upon the call of the chair. The Child Care Executive Partnership may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, only if the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

(c) Members shall serve without compensation, but may be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(d) The Child Care Executive Partnership shall have all the powers and authority, not explicitly prohibited by law, necessary to carry out and effectuate the purposes of this section, as well as the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

1. Making recommendations concerning the implementation and coordination of the school readiness program.

2. Soliciting, accepting, receiving, investing, and expending funds from public or private sources.

3. Contracting with public or private entities as necessary.

4. Approving an annual budget.
5. Providing a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before December 1 of each year.

Notwithstanding this subsection, the corporate body politic previously established by prior law is the corporate body politic for purposes of this section and shall continue in existence. All member terms of the existing corporate body politic expire as of June 30, 2013, and new members shall be appointed beginning July 1, 2013, in accordance with this subsection.

(3)(a) The Legislature shall annually determine the amount of state or federal low-income child care moneys which shall be used to create Child Care Executive Partnership Program child care purchasing pools in counties chosen by the Child Care Executive Partnership provided that at least two of the counties have populations of no more than 300,000. The Legislature shall annually review the effectiveness of the child care purchasing pool program and reevaluate the percentage of additional state or federal funds, if any, which can be used for the program's expansion.

(b) To ensure a seamless service delivery and ease of access for families, the office shall administer the child care purchasing pool funds.

(c) The office, in conjunction with the Child Care Executive Partnership, shall develop procedures for disbursement of funds through the child care purchasing pools. In order to be considered for funding, an early learning coalition or the office must commit to:

1. Matching the state purchasing pool funds on a dollar-for-dollar basis.

2. Expending only those public funds that are matched by employers, local government, and other matching contributors who contribute to the purchasing pool. Parents shall also pay a fee, which may not be less than the amount identified in the early learning coalition's school readiness program sliding fee scale.

(d) Each early learning coalition shall establish a community child care task force for each child care purchasing pool. The task force must be composed of employers, parents, private child care providers, and one representative from the local children's services council, if one exists in the area of the purchasing pool. The early learning coalition is expected to recruit the task force members from existing child care councils, commissions, or task forces already operating in the area of a purchasing pool. A majority of the task force shall consist of employers.

(e) Each participating early learning coalition shall develop a plan for the use of child care purchasing pool funds. The plan must show how many children will be served by the purchasing pool, how many will be new to receiving child care services, and how the early learning coalition intends to attract new employers and their employees to the program.

(4) The office may adopt any rules necessary for the implementation and administration of this section.

History.—s. 17, ch. 2013-252.

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#### **1002.95 Teacher Education and Compensation Helps (TEACH) scholarship program.—**

(1) The office may contract for the administration of the Teacher Education and Compensation Helps (TEACH) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes. The goal of the program is to increase the education

and training for caregivers, increase the compensation for child caregivers who complete the program requirements, and reduce the rate of participant turnover in the field of early childhood education.

(2) The office shall adopt rules as necessary to administer this section.

History.—s. 17, ch. 2013-252.

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#### **1002.96 Early Head Start collaboration grants.—**

(1) Contingent upon specific appropriation, the office shall establish a program to award collaboration grants to assist local agencies in securing Early Head Start programs through Early Head Start program federal grants. The collaboration grants shall provide the required matching funds for public and private nonprofit agencies that have been approved for Early Head Start program federal grants.

(2) Public and private nonprofit agencies providing Early Head Start programs applying for collaborative grants must:

(a) Meet the requirements in the Head Start

program performance standards and other applicable rules and regulations.

(b) Collaborate with other service providers at the local level.

(c) Provide a comprehensive array of health, nutritional, and other services to the program's pregnant women and very young children, and their families.

(3) The office may adopt rules as necessary for the award of collaboration grants to competing agencies and the administration of the collaboration grants program under this section.

History.—s. 17, ch. 2013-252.

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**1002.97 Records of children in the school readiness program.—**

(1) The individual records of children enrolled in the school readiness program provided under this part, held by an early learning coalition or the office, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, records include assessment data, health data, records of teacher observations, and personal identifying information.

(2) A parent has the right to inspect and review the individual school readiness program record of his or her child and to obtain a copy of the record.

(3) School readiness program records may be released to:

(a) The United States Secretary of Education, the United States Secretary of Health and Human Services, and the Comptroller General of the United States for the purpose of federal audits and investigations.

(b) Individuals or organizations conducting studies for institutions to develop, validate, or administer assessments or improve instruction.

(c) Accrediting organizations in order to carry out their accrediting functions.

(d) Appropriate parties in connection with an emergency if the information is necessary to protect the health or safety of the child enrollee or

other individuals.

(e) The Office of Program Policy Analysis and Government Accountability and the Auditor General in connection with their official functions.

(f) A court of competent jurisdiction in compliance with an order of that court in accordance with a lawfully issued subpoena.

(g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, providers of the school readiness program, state agencies, and the office for the purpose of implementing the school readiness program.

Agencies, organizations, or individuals that receive school readiness program records in order to carry out their official functions must protect the data in a manner that does not permit the personal identification of a child enrolled in a school readiness program and his or her parent by persons other than those authorized to receive the records.

History.—s. 3, ch. 2000-299; s. 9, ch. 2004-484; s. 1, ch. 2005-131; s. 314, ch. 2011-142; s. 18, ch. 2013-252.  
Note.—Former s. 411.011.



# Florida Statutes Pertaining to Special Programs

## Chapter 1003

### Public K-12 Education

**1003.01 Definitions.**—As used in this chapter, the term:

(1) “District school board” means the members who are elected by the voters of a school district created and existing pursuant to s. 4, Art. IX of the State Constitution to operate and control public K-12 education within the school district.

(2) “School” means an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

(3)(a) “Exceptional student” means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to s. 1003.21(1)(e).

(b) “Special education services” means specially designed instruction and such related services as are necessary for an exceptional student to benefit from education. Such services may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; services provided by a certified listening and spoken language specialist; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and other such services as approved by rules of the state board.

(4) “Career education” means education that provides instruction for the following purposes:

(a) At the elementary, middle, and high school levels, exploratory courses designed to give students initial exposure to a broad range of occupations to assist them in preparing their academic

and occupational plans, and practical arts courses that provide generic skills that may apply to many occupations but are not designed to prepare students for entry into a specific occupation. Career education provided before high school completion must be designed to strengthen both occupational awareness and academic skills integrated throughout all academic instruction.

(b) At the secondary school level, job-preparatory instruction in the competencies that prepare students for effective entry into an occupation, including diversified cooperative education, work experience, and job-entry programs that coordinate directed study and on-the-job training.

(c) At the postsecondary education level, courses of study that provide competencies needed for entry into specific occupations or for advancement within an occupation.

(5)(a) “Suspension,” also referred to as out-of-school suspension, means the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal’s designee, for a period not to exceed 10 school days and remanding of the student to the custody of the student’s parent with specific homework assignments for the student to complete.

(b) “In-school suspension” means the temporary removal of a student from the student’s regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.

(6) “Expulsion” means the removal of the right and obligation of a student to attend a public school under conditions set by the district school board, and for a period of time not to exceed the remainder of the term or school year and 1 additional year of attendance. Expulsions may be imposed with or without continuing educational services and shall be reported accordingly.

(7) “Corporal punishment” means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rule. However, the term “corporal punishment” does not include the use of such reasonable force by a teacher or principal as may be necessary for self-protection or to protect other students from disruptive students.

(8) “Habitual truant” means a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student’s parent, is subject to compulsory school

attendance under s. 1003.21(1) and (2)(a), and is not exempt under s. 1003.21(3) or s. 1003.24, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education. Such a student must have been the subject of the activities specified in ss. 1003.26 and 1003.27(3), without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 984.

(9) “Dropout” means a student who meets any one or more of the following criteria:

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student’s whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any career, adult, home education, or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. 322.091, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district’s policy.

The State Board of Education may adopt rules to implement the provisions of this subsection.

(10) “Alternative measures for students with special needs” or “special programs” means measures designed to meet the special needs of a student that cannot be met by regular school curricula.

(11)(a) “Juvenile justice education programs or schools” means programs or schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

(b) “Juvenile justice provider” means the Department of Juvenile Justice, the sheriff, or a

private, public, or other governmental organization under contract with the Department of Juvenile Justice or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

(12) “Children and youths who are experiencing homelessness,” for programs authorized under subtitle B, Education for Homeless Children and Youths, of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. ss. 11431 et seq., means children and youths who lack a fixed, regular, and adequate nighttime residence, and includes:

(a) Children 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, travel 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.

(b) Children 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.

(c) Children and youths who are living in cars, parks, public spaces, abandoned buildings, bus or train stations, or similar settings.

(d) Migratory children who are living in circumstances described in paragraphs (a)-(c).

(13) “Regular school attendance” means the actual attendance of a student during the school day as defined by law and rules of the State Board of Education. Regular attendance within the intent of s. 1003.21 may be achieved by attendance in:

(a) A public school supported by public funds;

(b) A parochial, religious, or denominational school;

(c) A private school supported in whole or in part by tuition charges or by endowments or gifts;

(d) A home education program that meets the requirements of chapter 1002; or

(e) A private tutoring program that meets the requirements of chapter 1002.

(14) “Core-curricula courses” means:

(a) Courses in language arts/reading, mathematics, social studies, and science in prekindergarten through grade 3, excluding extracurricular courses pursuant to subsection (15);

(b) Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level and courses required for middle school promotion, excluding extracurricular courses pursuant to subsection (15);

(c) Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessment, excluding extracurricular courses

pursuant to subsection (15);

(d) Exceptional student education courses; and

(e) English for Speakers of Other Languages courses.

The term is limited in meaning and used for the sole purpose of designating classes that are subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. This term does not include courses offered under ss. 1002.321(4)(e), 1002.33(7)(a)2.b., 1002.37, 1002.45, and 1003.499.

(15) “Extracurricular courses” means all courses that are not defined as “core-curricula courses,” which may include, but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit. The term is limited in meaning

and used for the sole purpose of designating classes that are not subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution.

(16) “Physical education” means the development or maintenance of skills related to strength, agility, flexibility, movement, and stamina, including dance; the development of knowledge and skills regarding teamwork and fair play; the development of knowledge and skills regarding nutrition and physical fitness as part of a healthy lifestyle; and the development of positive attitudes regarding sound nutrition and physical activity as a component of personal well-being.

History.—s. 111, ch. 2002-387; s. 1, ch. 2003-391; s. 81, ch. 2004-357; s. 15, ch. 2006-74; s. 2, ch. 2007-28; s. 5, ch. 2008-147; s. 3, ch. 2008-204; s. 6, ch. 2009-164; s. 14, ch. 2011-55; s. 15, ch. 2011-175; s. 10, ch. 2012-133; s. 3, ch. 2013-225; s. 33, ch. 2014-39.

**1003.02 District school board operation and control of public K-12 education within the school district.**—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school district. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following areas:

(a) Admission, classification, promotion, and graduation of students.—Adopt rules for admitting, classifying, promoting, and graduating students to or from the various schools of the district.

(b) Enforcement of attendance laws.—Provide for the enforcement of all laws and rules relating to the attendance of students at school. District school boards are authorized to establish policies that allow accumulated unexcused tardies, regardless of when they occur during the school day, and early departures from school to be recorded as unexcused absences. District school boards are also authorized to establish policies that require referral to a school’s child study team for students who have fewer absences than the number required by s. 1003.26(1)(b).

(c) Control of students.—

1. Adopt rules for the control, attendance, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion.

2. Maintain a code of student conduct as provided in chapter 1006.

(d) Courses of study and instructional materials.—

1. Provide adequate instructional materials for all students as follows and in accordance with the requirements of chapter 1006, in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction.

2. Adopt courses of study for use in the schools of the district.

3. Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials as may be needed, and ensure that instructional materials used in the district are consistent with the district goals and objectives and the course descriptions approved by the State Board of Education, as well as with the state and school district performance standards required by law and state board rule.

(e) Transportation.—Make provision for the transportation of students to the public schools or school activities they are required or expected to attend, efficiently and economically, in accordance with the requirements of chapter 1006, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

(f) Facilities and school plant.—

1. Approve and adopt a districtwide school facilities program, in accordance with the requirements of chapter 1013.

2. Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013.

3. Approve and adopt a districtwide school building program.

4. Select and purchase school sites, play-

grounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

5. Approve the proposed purchase of any site, playground, or recreational area for which school district funds are to be used.

6. Expand existing sites.

7. Rent buildings when necessary, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

8. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2).

9. Provide for the proper supervision of construction.

10. Make or contract for additions, alterations, and repairs on buildings and other school properties.

11. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

12. Provide adequately for the proper maintenance and upkeep of school plants, which function may be accomplished, in whole or part, by means of an interlocal agreement under s. 163.01.

13. Carry insurance on every school building in all school plants including contents, boilers, and machinery, except buildings of three classrooms or less which are of frame construction and located in a tenth class public protection zone as defined by the Florida Inspection and Rating Bureau, and on all school buses and other property under the control of the district school board or title to which is vested in the district school board, except as exceptions may be authorized under rules of the State Board of Education.

14. Condemn and prohibit the use for public school purposes of any building under the control of the district school board.

(g) School operation.—

1. Provide for the operation of all public schools as free schools for a term of 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education; determine district school funds necessary in addition to state funds to operate all schools for the minimum term; and arrange for the levying of district school taxes necessary to provide the amount needed from district sources.

2. Prepare, adopt, and timely submit to the Department of Education, as required by law and by rules of the State Board of Education, the annual school budget, so as to promote the improvement of the district school system.

(h) Records and reports.—

1. Keep all necessary records and make all needed and required reports, as required by law or by rules of the State Board of Education.

2. At regular intervals require reports to be made by principals or teachers in all public schools to the parents of the students enrolled and in attendance at their schools, apprising them of the academic and other progress being made by the student and giving other useful information.

(i) Parental notification of acceleration options.—At the beginning of each school year, notify parents of students in or entering high school of the opportunity and benefits of advanced placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, and Florida Virtual School courses and options for early graduation under s. 1003.4281.

(j) Return on investment.—Notify the parent of a student who earns an industry certification that articulates for postsecondary credit of the estimated cost savings to the parent before the student's high school graduation versus the cost of acquiring such certification after high school graduation, which would include the tuition and fees associated with available postsecondary credits. Also, the student and the parent must be informed of any additional industry certifications available to the student.

(2) Require that all laws, all rules of the State Board of Education, and all rules of the district school board are properly enforced.

(3) Maintain a system of school improvement and education accountability as required by law and State Board of Education rule, including but not limited to the requirements of chapter 1008.

(4) In order to reduce the anonymity of students in large schools, adopt policies that encourage subdivision of the school into schools-within-a-school, which shall operate within existing resources. A "school-within-a-school" means an operational program that uses flexible scheduling, team planning, and curricular and instructional innovation to organize groups of students with groups of teachers as smaller units, so as to functionally operate as a smaller school. Examples of this include, but are not limited to:

(a) An organizational arrangement assigning both students and teachers to smaller units in which the students take some or all of their coursework with their fellow grouped students and from the teachers assigned to the smaller unit. A unit may be grouped together for 1 year or on a vertical, multiyear basis.

(b) An organizational arrangement similar to that described in paragraph (a) with additional variations in instruction and curriculum. The smaller unit usually seeks to maintain a program different from that of the larger school, or of other smaller units. It may be vertically organized, but is dependent upon the school principal for its existence, budget, and staff.

(c) A separate and autonomous smaller unit formally authorized by the district school board

or district school superintendent. The smaller unit plans and runs its own program, has its own staff and students, and receives its own separate budget. The smaller unit must negotiate the use of common space with the larger school and defer

to the building principal on matters of safety and building operation.

History.—s. 112, ch. 2002-387; s. 10, ch. 2003-391; s. 82, ch. 2004-357; s. 3, ch. 2006-301; s. 2, ch. 2008-43; s. 13, ch. 2009-59; s. 6, ch. 2012-191; s. 9, ch. 2013-27; s. 34, ch. 2014-39; s. 2, ch. 2014-184.

### **1003.03 Maximum class size.—**

(1) **CLASS SIZE MAXIMUMS.**—Each year, on or before the October student membership survey, the following class size maximums shall be satisfied:

(a) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students.

(b) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 4 through 8 may not exceed 22 students. The maximum number of students assigned to a core-curricula high school course in which a student in grades 4 through 8 is enrolled shall be governed by the requirements in paragraph (c).

(c) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 9 through 12 may not exceed 25 students.

These maximums shall be maintained after the October student membership survey, except as provided in paragraph (2)(b) or due to an extreme emergency beyond the control of the district school board.

#### **(2) IMPLEMENTATION.—**

(a) The Department of Education shall annually calculate class size measures described in subsection (1) based upon the October student membership survey.

(b) A student who enrolls in a school after the October student membership survey may be assigned to an existing class that temporarily exceeds the maximum number of students in subsection (1) if the district school board determines it to be impractical, educationally unsound, or disruptive to student learning to not assign the student to the class. If the district school board makes this determination:

1. Up to three students may be assigned to a teacher in kindergarten through grade 3 above the maximum as provided in paragraph (1)(a);

2. Up to five students may be assigned to a teacher in grades 4 through 12 above the maximum as provided in paragraphs (1)(b) and (c), respectively; and

3. The district school board shall develop a plan that provides that the school will be in full compliance with the maximum class size in subsection (1) by the next October student membership survey.

(3) **IMPLEMENTATION OPTIONS.**—District school boards must consider, but are not limited to,

implementing the following items in order to meet the constitutional class size maximums described in subsection (1):

(a) Adopt policies to encourage qualified students to take dual enrollment courses.

(b) Adopt policies to encourage students to take courses from the Florida Virtual School and other virtual instruction options under s. 1002.45.

(c)1. Repeal district school board policies that require students to earn more than the 24 credits to graduate from high school.

2. Implement the early graduation options provided in ss. 1002.3105(5) and 1003.4281.

(d) Use methods to maximize use of instructional staff, such as changing required teaching loads and scheduling of planning periods, deploying district employees that have professional certification to the classroom, using adjunct educators, or any other method not prohibited by law.

(e) Use innovative methods to reduce the cost of school construction by using prototype school designs, using SMART Schools designs, or any other method not prohibited by law.

(f) Use joint-use facilities through partnerships with Florida College System institutions, state universities, and private colleges and universities. Joint-use facilities available for use as K-12 classrooms that do not meet the K-12 State Regulations for Educational Facilities in the Florida Building Code may be used at the discretion of the district school board provided that such facilities meet all other health, life, safety, and fire codes.

(g) Adopt alternative methods of class scheduling, such as block scheduling.

(h) Redraw school attendance zones to maximize use of facilities while minimizing the additional use of transportation.

(i) Operate schools beyond the normal operating hours to provide classes in the evening or operate more than one session of school during the day.

(j) Use year-round schools and other non-traditional calendars that do not adversely impact annual assessment of student achievement.

(k) Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.

(l) Use any other approach not prohibited by law.

#### **(4) ACCOUNTABILITY.—**

(a) If the department determines that the number of students assigned to any individual class exceeds the class size maximum, as required in subsection (1), based upon the October student



membership survey, the department shall:

1. Identify, for each grade group, the number of classes in which the number of students exceeds the maximum and the total number of students which exceeds the maximum for all classes.

2. Determine the number of FTE students which exceeds the maximum for each grade group.

3. Multiply the total number of FTE students which exceeds the maximum for each grade group by the district's FTE dollar amount of the class size categorical allocation for that year and calculate the total for all three grade groups.

4. Multiply the total number of FTE students which exceeds the maximum for all classes by an amount equal to 50 percent of the base student allocation adjusted by the district cost differential for each of the 2010-2011 through 2013-2014 fiscal years and by an amount equal to the base student allocation adjusted by the district cost differential in the 2014-2015 fiscal year and thereafter.

5. Reduce the district's class size categorical allocation by an amount equal to the sum of the calculations in subparagraphs 3. and 4.

- (b) The amount of funds reduced shall be the lesser of the amount calculated in paragraph (a) or the undistributed balance of the district's class size categorical allocation. The Florida Education Finance Program Appropriation Allocation Conference shall verify the department's calculation in paragraph (a). The commissioner may withhold distribution of the class size categorical allocation to the extent necessary to comply with paragraph (a).

- (c) In lieu of the reduction calculation in paragraph (a), if the Commissioner of Education has evidence that a district was unable to meet the class size requirements despite appropriate efforts to do so or because of an extreme emergency, the commissioner may recommend by February 15, subject to approval of the Legislative Budget Commission, the reduction of an alternate amount of funds from the district's class size categorical allocation.

- (d) Upon approval of the reduction calculation in paragraphs (a)-(c), the commissioner must prepare a reallocation of the funds made available for the districts that have fully met the class size requirements. The funds shall be reallocated by calculating an amount of up to 5 percent of the base student allocation multiplied by the total district FTE students. The reallocation total may not exceed 25 percent of the total funds reduced.

- (e) Each district that has not complied with the requirements in subsection (1) shall submit to the commissioner by February 1 a plan certified by the district school board that describes the specific actions the district will take in order to fully comply with the requirements in subsection (1) by October of the following school year. If a district submits the certified plan by the required deadline, the funds remaining after the reallocation calculation in paragraph (d) shall be added

back to the district's class size categorical allocation based on each qualifying district's proportion of the total reduction for all qualifying districts for which a reduction was calculated in paragraphs (a)-(c). However, no district shall have an amount added back that is greater than the amount that was reduced.

- (f) The department shall adjust school district class size reduction categorical allocation distributions based on the calculations in paragraphs (a)-(e).

(5) TEAM-TEACHING STRATEGIES.—

- (a) School districts may use teaching strategies that include the assignment of more than one teacher to a classroom of students and that were implemented before July 1, 2005. Effective July 1, 2005, school districts may implement additional teaching strategies that include the assignment of more than one teacher to a classroom of students for the following purposes only:

1. Pairing teachers for the purpose of staff development.

2. Pairing new teachers with veteran teachers.

3. Reducing turnover among new teachers.

4. Pairing teachers who are teaching out-of-field with teachers who are in-field.

5. Providing for more flexibility and innovation in the classroom.

6. Improving learning opportunities for students, including students who have disabilities.

- (b) Teaching strategies, including team teaching, co-teaching, or inclusion teaching, implemented on or after July 1, 2005, pursuant to paragraph (a) may be implemented subject to the following restrictions:

1. Reasonable limits shall be placed on the number of students in a classroom so that classrooms are not overcrowded. Teacher-to-student ratios within a curriculum area or grade level must not exceed constitutional limits.

2. At least one member of the team must have at least 3 years of teaching experience.

3. At least one member of the team must be teaching in-field.

4. The teachers must be trained in team-teaching methods within 1 year after assignment.

- (c) As used in this subsection, the term:

1. "Team teaching" or "co-teaching" means two or more teachers are assigned to a group of students and each teacher is responsible for all of the students during the entire class period. In order to be considered team teaching or co-teaching, each teacher is responsible for planning, delivering, and evaluating instruction for all students in the class or subject for the entire class period.

2. "Inclusion teaching" means two or more teachers are assigned to a group of students, but one of the teachers is responsible for only one student or a small group of students in the classroom.

The use of strategies implemented as outlined in this subsection meets the letter and intent of the Florida Constitution and the Florida Statutes which relate to implementing class size reduction, and this subsection applies retroactively. A school district may not be penalized financially or otherwise as a result of the use of any legal strategy, including, but not limited to, those set forth in subsection (3) and this subsection.

(6) **COURSES FOR COMPLIANCE.**—Consistent with s. 1003.01(14), the Department of Education

shall identify from the Course Code Directory the core-curricula courses for the purpose of satisfying the maximum class size requirement in this section. The department may adopt rules to implement this subsection, if necessary.

History.—s. 113, ch. 2002-387; s. 2, ch. 2003-391; s. 59, ch. 2005-152; s. 16, ch. 2006-74; s. 2, ch. 2007-59; s. 7, ch. 2007-98; s. 1, ch. 2007-328; s. 5, ch. 2008-142; s. 9, ch. 2009-3; s. 14, ch. 2009-59; ss. 11, 12, ch. 2010-154; s. 31, ch. 2011-5; s. 15, ch. 2011-55; s. 13, ch. 2011-137; s. 11, ch. 2012-133; s. 10, ch. 2013-27; s. 45, ch. 2013-35; s. 35, ch. 2014-39.

#### **1003.04 Student conduct and parental involvement.—**

(1) Each public K-12 student must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(2) The parent of each public K-12 student must cooperate with the authority of the student's district school board, superintendent, principal, teachers, and school bus drivers, according to ss. 1003.31 and 1003.32, to remove the student from

the classroom and the school bus and, when appropriate and available, to place the student in an alternative educational setting, if the student is disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.

(3) It is the goal of the Legislature and each district school board that the parent of each public K-12 student comply with the school's reasonable and time-acceptable parental involvement requests.

History.—s. 114, ch. 2002-387; s. 34, ch. 2003-391.

#### **1003.05 Assistance to transitioning students from military families.—**

(1) The Legislature finds that school-aged dependents of military personnel, otherwise known as military students, are faced with numerous transitions during their formative years and that moves during the high school years provide special challenges to learning and future achievement. Recognizing the challenges faced by military students and the importance of military families to our community and economy, the Department of Education shall assist the transition of these students by improving the timely transfer of records, developing systems to ease student transition during the first 2 weeks of enrollment, promoting practices which foster access to extracurricular programs, establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year, encouraging or continuing partnerships between the military base and the school system, providing services for transitioning students when applying to and finding funding for postsecondary study, and providing other assistance as identified by department, school, and military personnel.

(2) The Department of Education shall facilitate the development and implementation of

memoranda of agreement between school districts and military installations which address strategies for assisting students who are the children of active duty military personnel in the transition to Florida schools.

(3) Dependent children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools shall be given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned. If such a program is offered through a public school other than the school to which the student would generally be assigned, the parent or guardian of the student must assume responsibility for transporting the student to that school. For purposes of this subsection, special academic programs include magnet schools, advanced studies programs, advanced placement, dual enrollment, Advanced International Certificate of Education, and International Baccalaureate.

History.—s. 1, ch. 2003-44; s. 12, ch. 2004-230; s. 17, ch. 2006-74; s. 8, ch. 2006-190.

#### **1003.21 School attendance.—**

(1)(a)1. All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who have not attained the age of 16 years, except as otherwise provided, are required to attend school regularly during the entire school term.

2. Children who will have attained the age of 5 years on or before September 1 of the school year are eligible for admission to public kindergartens during that school year under rules adopted by the district school board.

(b) Any child who has attained the age of 6 years on or before September 1 of the school year and who has been enrolled in a public school or

who has attained the age of 6 years on or before September 1 and has satisfactorily completed the requirements for kindergarten in a private school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's student progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of private schools or home education programs.

(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district shall notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's certified school counselor or other school personnel shall conduct an exit interview with the student to determine the reasons for the student's decision to terminate school enrollment and actions that could be taken to keep the student in school. The student's certified school counselor or other school personnel shall inform the student of opportunities to continue his or her education in a different environment, including, but not limited to, adult education and high school equivalency examination preparation. Additionally, the student shall complete a survey in a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

(d) Students who become or have become married and students who are pregnant shall not be prohibited from attending school. These students and students who are parents shall receive the same educational instruction or its equivalent as other students, but may voluntarily be assigned to a class or program suited to their special needs. Consistent with s. 1003.54, pregnant or parenting teens may participate in a teenage parent program. Pregnant students may attend alternative education programs or adult education programs, provided that the curriculum allows the student to continue to work toward a high school diploma.

(e) Consistent with rules adopted by the State Board of Education, children with disabili-

ties who have attained the age of 3 years shall be eligible for admission to public special education programs and for related services. Children with disabilities younger than 3 years of age who are deaf or hard of hearing; visually impaired; dual sensory impaired; orthopedically impaired; other health impaired; who have experienced traumatic brain injury; who have autism spectrum disorder; established conditions, or who exhibit developmental delays or intellectual disabilities may be eligible for special programs and may receive services in accordance with rules of the State Board of Education. Rules for the identification of established conditions for children birth through 2 years of age and developmental delays for children birth through 5 years of age must be adopted by the State Board of Education.

(f) Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist such children in meeting the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(2)(a) The State Board of Education may adopt rules under which students not meeting the entrance age may be transferred from another state if their parents have been legal residents of that state.

(b) Each district school board, in accordance with rules of the State Board of Education, shall adopt a policy that authorizes a parent to request and be granted permission for absence of a student from school for religious instruction or religious holidays.

(3) The district school superintendent may authorize certificates of exemptions from school attendance requirements in certain situations. Students within the compulsory attendance age limits who hold valid certificates of exemption that have been issued by the superintendent shall be exempt from attending school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued.

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(a) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(c) An insurance policy on the child's life that has been in force for at least 2 years;

(d) A bona fide contemporary religious record of the child's birth accompanied by an affidavit sworn to by the parent;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent,

accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if these are not available in the county, by a licensed practicing physician designated by the district school board, which states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

History.—s. 116, ch. 2002-387; s. 18, ch. 2006-74; s. 4, ch. 2006-301; s. 4, ch. 2008-204; s. 5, ch. 2009-35; s. 7, ch. 2009-164; s. 4, ch. 2013-89; s. 16, ch. 2014-20.

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**1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—**

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year before enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, a child shall be exempted from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(2) The State Board of Education, subject to the concurrence of the Department of Health, shall adopt rules to govern medical examinations and immunizations performed under this section.

(3) The Department of Health may adopt rules necessary to administer and enforce this section. The Department of Health, after consultation with the Department of Education, shall adopt rules governing the immunization of children against, the testing for, and the control of preventable communicable diseases. The rules must include procedures for exempting a child from immunization requirements. Immunizations shall be required for poliomyelitis, diphtheria, rubeola, rubella, pertussis, mumps, tetanus, and other communicable diseases as determined by rules of the Department of Health. The manner and frequency

of administration of the immunization or testing shall conform to recognized standards of medical practice. The Department of Health shall supervise and secure the enforcement of the required immunization. Immunizations required by this section shall be available at no cost from the county health departments.

(4) Each district school board and the governing authority of each private school shall establish and enforce as policy that, prior to admittance to or attendance in a public or private school, grades kindergarten through 12, or any other initial entrance into a Florida public or private school, each child present or have on file with the school a certification of immunization for the prevention of those communicable diseases for which immunization is required by the Department of Health and further shall provide for appropriate screening of its students for scoliosis at the proper age. Such certification shall be made on forms approved and provided by the Department of Health and shall become a part of each student's permanent record, to be transferred when the student transfers, is promoted, or changes schools. The transfer of such immunization certification by Florida public schools shall be accomplished using the Florida Automated System for Transferring Education Records and shall be deemed to meet the requirements of this section.

(5) The provisions of this section shall not apply if:

(a) The parent of the child objects in writing that the administration of immunizing agents conflicts with his or her religious tenets or practices;

(b) A physician licensed under the provisions of chapter 458 or chapter 459 certifies in writing, on a form approved and provided by the Department of Health, that the child should be permanently exempt from the required immunization for medical reasons stated in writing, based upon valid clinical reasoning or evidence, demonstrating the need for the permanent exemption;

(c) A physician licensed under the provisions

of chapter 458, chapter 459, or chapter 460 certifies in writing, on a form approved and provided by the Department of Health, that the child has received as many immunizations as are medically indicated at the time and is in the process of completing necessary immunizations;

(d) The Department of Health determines that, according to recognized standards of medical practice, any required immunization is unnecessary or hazardous; or

(e) An authorized school official issues a temporary exemption, for up to 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

(6)(a) No person licensed by this state as a physician or nurse shall be liable for any injury caused by his or her action or failure to act in the administration of a vaccine or other immunizing agent pursuant to the provisions of this section if the person acts as a reasonably prudent person with similar professional training would have acted under the same or similar circumstances.

(b) No member of a district school board, or any of its employees, or member of a governing board of a private school, or any of its employees, shall be liable for any injury caused by the administration of a vaccine to any student who is required to be so immunized or for a failure to diagnose scoliosis pursuant to the provisions of this section.

(7) The parents of any child admitted to or in attendance at a Florida public or private school, grades prekindergarten through 12, are responsible for assuring that the child is in compliance with the provisions of this section.

(8) Each public school, including public

kindergarten, and each private school, including private kindergarten, shall be required to provide to the county health department director or administrator annual reports of compliance with the provisions of this section. Reports shall be completed on forms provided by the Department of Health for each kindergarten, and other grade as specified; and the reports shall include the status of children who were admitted at the beginning of the school year. After consultation with the Department of Education, the Department of Health shall establish by administrative rule the dates for submission of these reports, the grades for which the reports shall be required, and the forms to be used.

(9) The presence of any of the communicable diseases for which immunization is required by the Department of Health in a Florida public or private school shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. The declaration of such emergency shall mandate that all students in attendance in the school who are not in compliance with the provisions of this section be identified by the district school board or by the governing authority of the private school; and the school health and immunization records of such children shall be made available to the county health department director or administrator. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from school by the district school board, or the governing authority of the private school, until such time as is specified by the county health department director or administrator.

(10) Each district school board and the governing authority of each private school shall:

(a) Refuse admittance to any child otherwise entitled to admittance to kindergarten, or any other initial entrance into a Florida public or private school, who is not in compliance with the provisions of subsection (4).

(b) Temporarily exclude from attendance any student who is not in compliance with the provisions of subsection (4).

(11) The provisions of this section do not apply to those persons admitted to or attending adult education classes unless the adult students are under 21 years of age.

History.—s. 117, ch. 2002-387; s. 38, ch. 2004-41; s. 6, ch. 2009-35; s. 8, ch. 2009-164.

### **1003.23 Attendance records and reports.—**

(1) The attendance of all public K-12 school students shall be checked each school day in the manner prescribed by rules of the State Board of Education and recorded in the teacher's register or by some approved system of recording attendance. Students may be counted in attendance only if they are actually present at school or are away

from school on a school day and are engaged in an educational activity which constitutes a part of the school-approved instructional program for the student.

(2) All officials, teachers, and other employees in public, parochial, religious, denominational, and private K-12 schools, including private tutors, shall keep all records and shall prepare and submit



promptly all reports that may be required by law and by rules of the State Board of Education and district school boards. Such records shall include a register of enrollment and attendance and all persons described above shall make these reports therefrom as may be required by the State Board of Education. The enrollment register shall show the absence or attendance of each student enrolled for each school day of the year in a manner prescribed by the State Board of Education. The register shall

be open for the inspection by the designated school representative or the district school superintendent of the district in which the school is located. Violation of the provisions of this section shall be a misdemeanor of the second degree, punishable as provided by law. This section shall not apply to home education programs provided in s. 1002.41.

History.—s. 118, ch. 2002-387.

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**1003.24 Parents responsible for attendance of children; attendance policy.**—Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a student from school is prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

(1) **WITH PERMISSION.**—The absence was with permission of the head of the school;

(2) **WITHOUT KNOWLEDGE.**—The absence was without the parent's knowledge, consent, or connivance, in which case the student shall be dealt with as a dependent child;

(3) **FINANCIAL INABILITY.**—The parent was unable financially to provide necessary clothes for the student, which inability was reported in writing to the superintendent prior to the opening of school or immediately after the beginning of such inability, provided that the validity of any claim for exemption under this subsection shall be determined by the district school superintendent subject to appeal to the district school board; or

(4) **SICKNESS, INJURY, OR OTHER INSURMOUNTABLE CONDITION.**—Attendance was impracticable or inadvisable on account of sickness or injury, attested to by a written statement of a licensed practicing physician, or was impracticable because of some other stated insurmountable condition as defined by rules of the State Board of Education. If a student is continually sick and repeatedly absent from school, he or she must be under the supervision of a physician in order to receive an excuse from attendance. Such excuse provides that a student's condition justifies absence for more than the number of days permitted by the district school board.

Each district school board shall establish an attendance policy that includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

History.—s. 119, ch. 2002-387.

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**1003.25 Procedures for maintenance and transfer of student records.**—

(1) Each principal shall maintain a permanent cumulative record for each student enrolled in a public K-12 school. Such record shall be maintained in the form, and contain all data, prescribed by rule by the State Board of Education. The cumulative record is confidential and exempt from the provisions of s. 119.07(1) and is open to inspection only as provided in chapter 1002.

(2) The procedure for transferring and maintaining records of students who transfer from school to school shall be prescribed by rules of the State Board of Education.

(3) Procedures relating to the acceptance of transfer work and credit for students shall be prescribed by rule by the State Board of Education.

History.—s. 120, ch. 2002-387.

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**1003.26 Enforcement of school attendance.**—The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement

agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide

that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) CONTACT, REFER, AND ENFORCE.—

(a) Upon each unexcused absence, or absence for which the reason is unknown, the school principal or his or her designee shall contact the student's parent to determine the reason for the absence. If the absence is an excused absence, as defined by district school board policy, the school shall provide opportunities for the student to make up assigned work and not receive an academic penalty unless the work is not made up within a reasonable time.

(b) If a student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, the student's primary teacher shall report to the school principal or his or her designee that the student may be exhibiting a pattern of nonattendance. The principal shall, unless there is clear evidence that the absences are not a pattern of nonattendance, refer the case to the school's child study team to determine if early patterns of truancy are developing. If the child study team finds that a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled to identify potential remedies, and the principal shall notify the district school superintendent and the school district contact for home education programs that the referred student is exhibiting a pattern of nonattendance.

(c) If an initial meeting does not resolve the problem, the child study team shall implement the following:

1. Frequent attempts at communication between the teacher and the family.
2. Evaluation for alternative education programs.
3. Attendance contracts.

The child study team may, but is not required to, implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition pursuant to s. 984.151.

(d) The child study team shall be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted.

(e) If the parent refuses to participate in the remedial strategies because he or she believes that those strategies are unnecessary or inappropriate, the parent may appeal to the district school board. The district school board may provide a hearing officer, and the hearing officer shall make a recommendation for final action to the district school board. If the district school board's final determination is that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, the district school superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

(f)1. If the parent of a child who has been identified as exhibiting a pattern of nonattendance enrolls the child in a home education program pursuant to chapter 1002, the district school superintendent shall provide the parent a copy of s. 1002.41 and the accountability requirements of this paragraph. The district school superintendent shall also refer the parent to a home education review committee composed of the district contact for home education programs and at least two home educators selected by the parent from a district list of all home educators who have conducted a home education program for at least 3 years and who have indicated a willingness to serve on the committee. The home education review committee shall review the portfolio of the student, as defined by s. 1002.41, every 30 days during the district's regular school terms until the committee is satisfied that the home education program is in compliance with s. 1002.41(1)(b). The first portfolio review must occur within the first 30 calendar days of the establishment of the program. The provisions of subparagraph 2. do not apply once the committee determines the home education program is in compliance with s. 1002.41(1)(b).

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the definition of "regular school attendance" under s. 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s. 1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(b).

(g) If a student subject to compulsory school attendance will not comply with attempts to enforce school attendance, the parent or the district school superintendent or his or her designee shall refer the case to the case staffing committee pursuant to s. 984.12, and the district school superintendent or his or her designee may file a truancy petition pursuant to the procedures in s. 984.151.

(2) GIVE WRITTEN NOTICE.—

(a) Under the direction of the district school superintendent, a designated school representative shall give written notice that requires enrollment or attendance within 3 days after the date of notice, in person or by return-receipt mail, to the parent when no valid reason is found for a student's nonenrollment in school. If the notice and requirement are ignored, the designated school representative shall report the case to the district school superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12. The district school superintendent shall take such steps as are necessary to bring criminal prosecution against the parent.

(b) Subsequent to the activities required under subsection (1), the district school superintendent or his or her designee shall give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought for nonattendance. The district school superintendent may file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151.

(3) RETURN STUDENT TO PARENT.—A design-

nated school representative may visit the home or place of residence of a student and any other place in which he or she is likely to find any student who is required to attend school when the student is not enrolled or is absent from school during school hours without an excuse, and, when the student is found, shall return the student to his or her parent or to the principal or teacher in charge of the school, or to the private tutor from whom absent, or to the juvenile assessment center or other location established by the district school board to receive students who are absent from school. Upon receipt of the student, the parent shall be immediately notified.

(4) REPORT TO APPROPRIATE AUTHORITY.—A designated school representative shall report to the appropriate authority designated by law to receive such notices, all violations of the Child Labor Law that may come to his or her knowledge.

(5) RIGHT TO INSPECT.—A designated school representative shall have the right of access to, and inspection of, establishments where minors may be employed or detained only for the purpose of ascertaining whether students of compulsory school age are actually employed there and are actually working there regularly. The designated school representative shall, if he or she finds unsatisfactory working conditions or violations of the Child Labor Law, report his or her findings to the appropriate authority.

History.—s. 121, ch. 2002-387; s. 5, ch. 2006-301.

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**1003.27 Court procedure and penalties.**—The court procedure and penalties for the enforcement of the provisions of this part, relating to compulsory school attendance, shall be as follows:

(1) COURT JURISDICTION.—The circuit court has original and exclusive jurisdiction of all proceedings against, or prosecutions of, students under the provisions of this part. Proceedings against, or prosecutions of, parents or employers as provided by this section shall be in the court of each county having jurisdiction of misdemeanors wherein trial by jury is afforded the defendant.

(2) NONENROLLMENT AND NONATTENDANCE CASES.—

(a) In each case of nonenrollment or of nonattendance upon the part of a student who is required to attend some school, when no valid reason for such nonenrollment or nonattendance is found, the district school superintendent shall institute a criminal prosecution against the student's parent.

(b) Each public school principal or the principal's designee shall notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. Each designee of the governing body of each private school, and each parent whose child is enrolled in a home education program,

may provide the Department of Highway Safety and Motor Vehicles with the legal name, sex, date of birth, and social security number of each minor student under his or her jurisdiction who fails to satisfy relevant attendance requirements and who fails to otherwise satisfy the requirements of s. 322.091. The district school superintendent must provide the Department of Highway Safety and Motor Vehicles the legal name, sex, date of birth, and social security number of each minor student who has been reported under this paragraph and who fails to otherwise satisfy the requirements of s. 322.091. The Department of Highway Safety and Motor Vehicles may not issue a driver license or learner's driver license to, and shall suspend any previously issued driver license or learner's driver license of, any such minor student, pursuant to the provisions of s. 322.091.

(3) HABITUAL TRUANCY CASES.—The district school superintendent is authorized to file a truancy petition, as defined in s. 984.03, following the procedures outlined in s. 984.151. If the district school superintendent chooses not to file a truancy petition, procedures for filing a child-in-need-of-services petition shall be commenced pursuant to this subsection and chapter 984. In accordance with procedures established by the district school

board, the designated school representative shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in this section. The case staffing committee may request the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the district school board or other community agency or may seek to resolve the truant behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this section and s. 1003.26 to remedy the conditions leading to the truant behavior. Prior to the filing of a petition, the district school board must have complied with the requirements of s. 1003.26, and those efforts must have been unsuccessful.

(4) **COOPERATIVE AGREEMENTS.**—The circuit manager of the Department of Juvenile Justice or the circuit manager's designee, the district administrator of the Department of Children and Families or the district administrator's designee, and the district school superintendent or the superintendent's designee must develop a cooperative interagency agreement that:

(a) Clearly defines each department's role, responsibility, and function in working with habitual truants and their families.

(b) Identifies and implements measures to resolve and reduce truant behavior.

(c) Addresses issues of streamlining service delivery, the appropriateness of legal intervention, case management, the role and responsibility of the case staffing committee, student and parental intervention and involvement, and community action plans.

(d) Delineates timeframes for implementation and identifies a mechanism for reporting results by the circuit juvenile justice manager or the circuit manager's designee and the district school superintendent or the superintendent's designee to the Department of Juvenile Justice and the Department of Education and other governmental entities as needed.

(e) Designates which agency is responsible for each of the intervention steps in this section, to yield more effective and efficient intervention services.

(5) **ATTENDANCE REGISTER AS EVIDENCE.**—The register of attendance of students at a public, parochial, religious, denominational, or private school, or of students taught by a private tutor, kept in compliance with rules of the State Board of Education is prima facie evidence of the facts

which it is required to show. A certified copy of any rule and a statement of the date of its adoption by the State Board of Education is admissible as prima facie evidence of the provisions of the rule and of the date of its adoption.

(6) **PROCEEDINGS AND PROSECUTIONS; WHO MAY BEGIN.**—Proceedings or prosecutions under this chapter may be commenced by the district school superintendent, by a designated school representative, by the probation officer of the county, by the executive officer of any court of competent jurisdiction, by an officer of any court of competent jurisdiction, or by a duly authorized agent of the Department of Education or the Department of Juvenile Justice. If a proceeding has been commenced against both a parent and a child pursuant to this chapter, the presiding courts shall make every effort to coordinate sanctions against the child and parent, including ordering the child and parent to perform community service hours or attend counseling together.

(7) **PENALTIES.**—The penalties for refusing or failing to comply with this chapter shall be as follows:

(a) The parent.—

1. A parent who refuses or fails to have a minor student who is under his or her control attend school regularly, or who refuses or fails to comply with the requirements in subsection (3), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. The continued or habitual absence of a minor student without the consent of the principal or teacher in charge of the school he or she attends or should attend, or of the tutor who instructs or should instruct him or her, is prima facie evidence of a violation of this chapter; however, a showing that the parent has made a bona fide and diligent effort to control and keep the student in school shall be an affirmative defense to any criminal or other liability under this subsection and the court shall refer the parent and child for counseling, guidance, or other needed services.

3. In addition to any other punishment, the court shall order a parent who has violated this section to send the minor student to school, and may also order the parent to participate in an approved parent training class, attend school with the student unless this would cause undue hardship, perform community service hours at the school, or participate in counseling or other services, as appropriate. If a parent is ordered to attend school with a student, the school shall provide for programming to educate the parent and student on the importance of school attendance. It shall be unlawful to terminate any employee solely because he or she is attending school with his or her child pursuant to a court order.

(b) The principal or teacher.—A principal or teacher in any public, parochial, religious, denomi-

national, or private school, or a private tutor who willfully violates any provision of this chapter may, upon satisfactory proof of such violation, have his or her certificate revoked by the Department of Education.

(c) The employer.—

1. An employer who fails to notify the district school superintendent when he or she ceases to employ a student commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. An employer who terminates any employee solely because he or she is attending school with a student pursuant to court order commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) The student.—

1. In addition to any other authorized sanc-

tions, the court shall order a student found to be a habitual truant to make up all school work missed and may order the student to pay a civil penalty of up to \$2, based on the student's ability to pay, for each day of school missed, perform up to 25 community service hours at the school, or participate in counseling or other services, as appropriate.

2. Upon a second or subsequent finding that a student is a habitual truant, the court, in addition to any other authorized sanctions, shall order the student to make up all school work missed and may order the student to pay a civil penalty of up to \$5, based on the student's ability to pay, for each day of school missed, perform up to 50 community service hours at the school, or participate in counseling or other services, as appropriate.

History.—s. 122, ch. 2002-387; s. 366, ch. 2014-19.

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**1003.28 Continuation of truancy remedial activities upon transfer of student; retention of legal jurisdiction.—**

(1) If, during the activities designed to remedy truant behavior as described in s. 1003.27, the parent of the student who is the subject of such activities transfers the student to another school district in this state in an attempt to circumvent the remedial procedures which have already begun, the administration of the school from which the student transferred shall provide to the administration of the new school, at no charge, copies of all available records and documents relevant to such remedial activities, and the administration of

the new school shall begin remedial activities in the program that most closely meets the transfer student's needs.

(2) In the event that a legal proceeding has commenced, as provided in s. 1003.27, against a student who has been determined to be a habitual truant, the movement of the student who is the subject of such proceeding to another circuit court district in this state will not affect the jurisdiction of the court to proceed with the case under the law.

History.—s. 123, ch. 2002-387.

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**1003.29 Notice to schools of court action.—**If a court takes action that directly involves a student's school, including, but not limited to, an order that a student attend school, attend school with his or her parent, perform at grade level, or perform

community service hours at the school, the office of the clerk of the court shall provide notice to the school of the court's action.

History.—s. 124, ch. 2002-387.

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**1003.31 Students subject to control of school.—**

(1) Subject to law and rules of the State Board of Education and of the district school board, each student enrolled in a school shall:

(a) During the time she or he is being transported to or from school at public expense;

(b) During the time she or he is attending school;

(c) During the time she or he is on the school premises participating with authorization in a school-sponsored activity; and

(d) During a reasonable time before and after the student is on the premises for attendance at school or for authorized participation in a school-sponsored activity, and only when on the premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the State Board

of Education or the district school board may, by rules, subject each student to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school. Each district school board, each district school superintendent, and each school principal shall fully support the authority of teachers, according to s. 1003.32, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting.

(2) There is a rebuttable presumption that the term "reasonable time" means 30 minutes before or after the activity is scheduled or actually begins or ends, whichever period is longer. A school or district school board may, by policy or other formal action, assume a longer period of supervision. Casual or incidental contact between



school district personnel and students on school property shall not result in a legal duty to supervise outside of the reasonable times set forth in this section, provided that parents shall be advised in writing twice per year or by posted signs of the school's formal supervisory responsibility and that parents should not rely on additional supervision. The duty of supervision shall not extend to anyone other than students attending school and students authorized to participate in school-sponsored activities.

(3) Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:

- (a) The student is found to have committed a delinquent act which would be a felony if committed by an adult;
- (b) The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or
- (c) The student has been found guilty of a felony.

**1003.32 Authority of teacher; responsibility for control of students; district school board and principal duties.**—Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him or her by the principal or the principal's designated representative and shall keep good order in the classroom and in other places in which he or she is assigned to be in charge of students.

(1) In accordance with this section and within the framework of the district school board's code of student conduct, teachers and other instructional personnel shall have the authority to undertake any of the following actions in managing student behavior and ensuring the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom:

- (a) Establish classroom rules of conduct.
- (b) Establish and implement consequences, designed to change behavior, for infractions of classroom rules.
- (c) Have disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students removed from the classroom for behavior management intervention.
- (d) Have violent, abusive, uncontrollable, or disruptive students directed for information or assistance from appropriate school or district school board personnel.
- (e) Assist in enforcing school rules on school property, during school-sponsored transportation, and during school-sponsored activities.

However, if the student is a student with a disability, the disciplinary action must comply with the procedures set forth in State Board of Education rule.

(4) Each student enrolled in a school may be required to take the following school child's daily conduct pledge:

- (a) I will be respectful at all times and obedient unless asked to do wrong.
- (b) I will not hurt another person with my words or my acts, because it is wrong to hurt others.
- (c) I will tell the truth, because it is wrong to tell a lie.
- (d) I will not steal, because it is wrong to take someone else's property.
- (e) I will respect my body, and not take drugs.
- (f) I will show strength and courage, and not do something wrong, just because others are doing it.
- (g) I pledge to be nonviolent and to respect my teachers and fellow classmates.

History.—s. 126, ch. 2002-387; s. 35, ch. 2003-391.

(f) Request and receive information as to the disposition of any referrals to the administration for violation of classroom or school rules.

(g) Request and receive immediate assistance in classroom management if a student becomes uncontrollable or in case of emergency.

(h) Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.

(i) Press charges if there is a reason to believe that a crime has been committed on school property, during school-sponsored transportation, or during school-sponsored activities.

(j) Use reasonable force, according to standards adopted by the State Board of Education, to protect himself or herself or others from injury.

(k) Use corporal punishment according to school board policy and at least the following procedures, if a teacher feels that corporal punishment is necessary:

1. The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

2. A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the

punishment.

3. A teacher or principal who has administered punishment shall, upon request, provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

(2) Teachers and other instructional personnel shall:

(a) Set and enforce reasonable classroom rules that treat all students equitably.

(b) Seek professional development to improve classroom management skills when data show that they are not effective in handling minor classroom disruptions.

(c) Maintain an orderly and disciplined classroom with a positive and effective learning environment that maximizes learning and minimizes disruption.

(d) Work with parents and other school personnel to solve discipline problems in their classrooms.

(3) A teacher may send a student to the principal's office to maintain effective discipline in the classroom and may recommend an appropriate consequence consistent with the student code of conduct under s. 1006.07. The principal shall respond by employing the teacher's recommended consequence or a more serious disciplinary action if the student's history of disruptive behavior warrants it. If the principal determines that a lesser disciplinary action is appropriate, the principal should consult with the teacher prior to taking disciplinary action.

(4) A teacher may remove from class a student whose behavior the teacher determines interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. Each district school board, each district school superintendent, and each school principal shall support the authority of teachers to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.

(5) If a teacher removes a student from class under subsection (4), the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program as provided by s. 1003.53; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under subsection (6) determines that such placement is the best or only available alternative. The teacher and the placement review committee must render decisions within 5 days of the removal of the student from the classroom.

(6)(a) Each school shall establish a placement review committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. A school principal must notify each teacher in that school about the availability, the procedures, and the criteria for the placement review committee as outlined in this section.

(b) The principal must report on a quarterly basis to the district school superintendent and district school board each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must annually report these data to the department.

(c) The Commissioner of Education shall annually review each school district's compliance with this section, and success in achieving orderly classrooms, and shall use all appropriate enforcement actions up to and including the withholding of disbursements from the Educational Enhancement Trust Fund until full compliance is verified.

(d) Placement review committee membership must include at least the following:

1. Two teachers, one selected by the school's faculty and one selected by the teacher who has removed the student.

2. One member from the school's staff who is selected by the principal.

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within 5 days after the removal of the student from the classroom. If the placement review committee's decision is contrary to the decision of the teacher to withhold consent to the return of the removed student to the teacher's class, the teacher may appeal the committee's decision to the district school superintendent.

(7) Any teacher who removes 25 percent of his or her total class enrollment shall be required to complete professional development to improve classroom management skills.

(8) Each teacher or other member of the staff of any school who knows or has reason to suspect that any person has committed, or has made a credible threat to commit, a crime of violence on school property shall report such knowledge or suspicion in accordance with the provisions of s. 1006.13. Each district school superintendent and each school principal shall fully support good faith reporting in accordance with the provisions of this subsection and s. 1006.13. Any person who makes a report required by this subsection in good faith shall be immune from civil or criminal liability for making the report.

(9) When knowledgeable of the likely risk of physical violence in the schools, the district school

board shall take reasonable steps to ensure that teachers, other school staff, and students are not at undue risk of violence or harm.

History.—s. 127, ch. 2002-387; s. 36, ch. 2003-391.

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**1003.33 Report cards; end-of-the-year status.—**

(1) Each district school board shall establish and publish policies requiring the content and regular issuance of student report cards for all elementary school, middle school, and high school students. These report cards must clearly depict and grade:

(a) The student's academic performance in each class or course, which in grades 1 through 12 must be based upon examinations as well as written papers, class participation, and other academic performance criteria, and must include the student's performance or nonperformance at his or her grade level.

(b) The student's conduct and behavior.

(c) The student's attendance, including ab-

sences and tardiness.

(2) A student's final report card for a school year shall contain a statement indicating end-of-the-year status regarding performance or nonperformance at grade level, acceptable or unacceptable behavior and attendance, and promotion or nonpromotion.

District school boards shall not allow schools to exempt students from academic performance requirements based on practices or policies designed to encourage student attendance. A student's attendance record may not be used in whole or in part to provide an exemption from any academic performance requirement.

History.—s. 128, ch. 2002-387; s. 7, ch. 2003-118.

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**1003.41 Next Generation Sunshine State Standards.—**

(1) Next Generation Sunshine State Standards establish the core content of the curricula to be taught in the state and specify the core content knowledge and skills that K-12 public school students are expected to acquire. Standards must be rigorous and relevant and provide for the logical, sequential progression of core curricular content that incrementally increases a student's core content knowledge and skills over time. Curricular content for all subjects must integrate critical-thinking, problem-solving, and workforce-literacy skills; communication, reading, and writing skills; mathematics skills; collaboration skills; contextual and applied-learning skills; technology-literacy skills; information and media-literacy skills; and civic-engagement skills. The standards must include distinct grade-level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The standards for grades 9 through 12 may be organized by grade clusters of more than one grade level except as otherwise provided for visual and performing arts, physical education, health, and foreign language standards.

(2) Next Generation Sunshine State Standards must meet the following requirements:

(a) English Language Arts standards must establish specific curricular content for, at a minimum, reading, writing, speaking and listening, and language.

(b) Science standards must establish specific curricular content for, at a minimum, the nature of science, earth and space science, physical science, and life science.

(c) Mathematics standards must establish specific curricular content for, at a minimum, alge-

bra, geometry, statistics and probability, number and quantity, functions, and modeling.

(d) Social Studies standards must establish specific curricular content for, at a minimum, geography, United States and world history, government, civics, humanities, and economics, including financial literacy. Financial literacy includes the knowledge, understanding, skills, behaviors, attitudes, and values that will enable a student to make responsible and effective financial decisions on a daily basis. Financial literacy instruction shall be an integral part of instruction throughout the entire economics course and include information regarding earning income; buying goods and services; saving and financial investing; taxes; the use of credit and credit cards; budgeting and debt management, including student loans and secured loans; banking and financial services; planning for one's financial future, including higher education and career planning; credit reports and scores; and fraud and identity theft prevention.

(e) Visual and performing arts, physical education, health, and foreign language standards must establish specific curricular content and include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 5. The standards for grades 6 through 12 may be organized by grade clusters of more than one grade level.

(3) The Commissioner of Education, as needed, shall develop and submit proposed revisions to the standards for review and comment by Florida educators, school administrators, representatives of the Florida College System institutions and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education and careers, business and industry leaders, and the public. The

commissioner, after considering reviews and comments, shall submit the proposed revisions to the State Board of Education for adoption.

(4) The State Board of Education shall adopt rules to administer this section.

History.—s. 130, ch. 2002-387; s. 1, ch. 2008-235; s. 2, ch. 2010-48; s. 32, ch. 2011-5; s. 11, ch. 2013-27; s. 36, ch. 2014-39.

#### **1003.4156 General requirements for middle grades promotion.—**

(1) In order for a student to be promoted to high school from a school that includes middle grades 6, 7, and 8, the student must successfully complete the following courses:

(a) Three middle grades or higher courses in English Language Arts (ELA).

(b) Three middle grades or higher courses in mathematics. Each school that includes middle grades must offer at least one high school level mathematics course for which students may earn high school credit. Successful completion of a high school level Algebra I or Geometry course is not contingent upon the student's performance on the statewide, standardized end-of-course (EOC) assessment. To earn high school credit for Algebra I, a middle grades student must take the statewide, standardized Algebra I EOC assessment and pass the course, and in addition, beginning with the 2013-2014 school year and thereafter, a student's performance on the Algebra I EOC assessment constitutes 30 percent of the student's final course grade. To earn high school credit for a Geometry course, a middle grades student must take the statewide, standardized Geometry EOC assessment, which constitutes 30 percent of the student's final course grade, and earn a passing grade in the course.

(c) Three middle grades or higher courses in social studies. Beginning with students entering grade 6 in the 2012-2013 school year, one of these courses must be at least a one-semester civics education course that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. Beginning with the 2013-2014 school year, each student's performance on the statewide, standardized EOC assessment in civics education required under s. 1008.22 constitutes 30 percent of the student's final course grade. A middle grades student who transfers into the state's public school system from out of country, out of state, a private school, or a home education program after the beginning of the second term of grade 8 is not required to meet the civics education requirement for promotion from the middle grades if the student's transcript documents passage of three courses in social studies or two year-long

<sup>1</sup>Note.—Section 6, ch. 2013-250, provides that “[f]ull implementation of online assessments for Next Generation Sunshine State Standards in English/language arts and mathematics adopted under s. 1003.41, Florida Statutes, for all kindergarten through grade 12 public school students shall occur only after the technology infrastructure, connectivity, and capacity of all public schools and school districts have been load tested and independently verified as ready for successful deployment and implementation.”

courses in social studies that include coverage of civics education.

(d) Three middle grades or higher courses in science. Successful completion of a high school level Biology I course is not contingent upon the student's performance on the statewide, standardized EOC assessment required under s. 1008.22. However, beginning with the 2012-2013 school year, to earn high school credit for a Biology I course, a middle grades student must take the statewide, standardized Biology I EOC assessment, which constitutes 30 percent of the student's final course grade, and earn a passing grade in the course.

(e) One course in career and education planning to be completed in 6th, 7th, or 8th grade. The course may be taught by any member of the instructional staff. At a minimum, the course must be Internet-based, easy to use, and customizable to each student and include research-based assessments to assist students in determining educational and career options and goals. In addition, the course must result in a completed personalized academic and career plan for the student; must emphasize the importance of entrepreneurship skills; must emphasize technology or the application of technology in career fields; and, beginning in the 2014-2015 academic year, must include information from the Department of Economic Opportunity's economic security report as described in s. 445.07. The required personalized academic and career plan must inform students of high school graduation requirements, including a detailed explanation of the diploma designation options provided under s. 1003.4285; high school assessment and college entrance test requirements; Florida Bright Futures Scholarship Program requirements; state university and Florida College System institution admission requirements; available opportunities to earn college credit in high school, including Advanced Placement courses; the International Baccalaureate Program; the Advanced International Certificate of Education Program; dual enrollment, including career dual enrollment; and career education courses, including career-themed courses and courses that lead to industry certification pursuant to s. 1003.492 or s. 1008.44.

Each school must inform parents about the course curriculum and activities. Each student shall complete a personal education plan that must be signed by the student and the student's parent. The Department of Education shall develop course frameworks and professional development materi-

als for the career and education planning course. The course may be implemented as a stand-alone course or integrated into another course or courses. The Commissioner of Education shall collect longitudinal high school course enrollment data by student ethnicity in order to analyze course-taking patterns.

(2) If a middle grades student scores Level 1 or Level 2 on the statewide, standardized Reading assessment or, when implemented, the English Language Arts (ELA) assessment, the following year the student must enroll in and complete a remedial course or a content area course in which remediation strategies are incorporated into course content delivery. The department shall provide guidance on

appropriate strategies for diagnosing and meeting the varying instructional needs of students performing below grade level.

(3) If a middle grades student scores Level 1 or Level 2 on the statewide, standardized Mathematics assessment, the following year the student must receive remediation, which may be integrated into the student's required mathematics courses.

(4) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section and may enforce this section pursuant to s. 1008.32.

History.—s. 21, ch. 2006-74; s. 179, ch. 2008-4; s. 2, ch. 2010-22; s. 3, ch. 2010-48; s. 33, ch. 2011-5; s. 16, ch. 2011-175; s. 7, ch. 2012-134; s. 7, ch. 2012-191; s. 13, ch. 2013-27; s. 37, ch. 2014-39.

### **1003.42 Required instruction.—**

(1) Each district school board shall provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education adopted standards in the following subject areas: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts. The state board must remove a middle grades course in the Course Code Directory that does not fully integrate all appropriate curricular content required by s. 1003.41 and may approve a new course only if it meets the required curricular content.

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historic accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(a) The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.

(b) The history, meaning, significance, and effect of the provisions of the Constitution of the United States and amendments thereto, with emphasis on each of the 10 amendments that make up the Bill of Rights and how the constitution provides the structure of our government.

(c) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.

(d) Flag education, including proper flag display and flag salute.

(e) The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and

its counties, municipalities, school districts, and special districts.

(f) The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present. American history shall be viewed as factual, not as constructed, shall be viewed as knowable, teachable, and testable, and shall be defined as the creation of a new nation based largely on the universal principles stated in the Declaration of Independence.

(g) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions.

(h) The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society. Instructional materials shall include the contributions of African Americans to American society.

(i) The elementary principles of agriculture.

(j) The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind.

(k) Kindness to animals.

(l) The history of the state.

(m) The conservation of natural resources.

(n) Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence



as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; Internet safety; nutrition; personal health; prevention and control of disease; and substance use and abuse. The health education curriculum for students in grades 7 through 12 shall include a teen dating violence and abuse component that includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.

(o) Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of the State Board of Education and the district school board in fulfilling the requirements of law.

(p) The study of Hispanic contributions to the United States.

(q) The study of women's contributions to the United States.

(r) The nature and importance of free enterprise to the United States economy.

(s) A character-development program in the elementary schools, similar to Character First or Character Counts, which is secular in nature. Beginning in school year 2004-2005, the character-development program shall be required in kindergarten through grade 12. Each district school board

shall develop or adopt a curriculum for the character-development program that shall be submitted to the department for approval. The character-development curriculum shall stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.

(t) In order to encourage patriotism, the sacrifices that veterans have made in serving our country and protecting democratic values worldwide. Such instruction must occur on or before Veterans' Day and Memorial Day. Members of the instructional staff are encouraged to use the assistance of local veterans when practicable.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection.

(3) Any student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment. A student so exempted may not be penalized by reason of that exemption. Course descriptions for comprehensive health education shall not interfere with the local determination of appropriate curriculum which reflects local values and concerns.

History.—s. 131, ch. 2002-387; s. 22, ch. 2006-74; s. 13, ch. 2010-154; s. 1, ch. 2010-217; s. 14, ch. 2011-220; s. 3, ch. 2014-184.

### **1003.4203 Digital materials, CAPE Digital Tool certificates, and technical assistance.—**

(1) DIGITAL MATERIALS.—Each district school board, in consultation with the district school superintendent, shall make available digital materials, CAPE Digital Tool certificates, and CAPE industry certifications for students in prekindergarten through grade 12 in order to enable students to attain digital skills. The digital materials, CAPE Digital Tool certificates, and CAPE industry certifications may be integrated into subject area curricula, offered as a separate course, made available through open-access options, or deployed through online or digital computer applications.

(2) CAPE ESE DIGITAL TOOLS.— Each district school board, in consultation with the district school superintendent, shall make available digital and instructional materials, including software applications, to students with disabilities who are in prekindergarten through grade 12. Beginning with the 2015-2016 school year:

(a) Digital materials may include CAPE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications identified pursuant to s. 1008.44 for students with disabilities; and

(b) Each student's individual educational plan for students with disabilities developed pursuant to this chapter must identify the CAPE Digital Tool

certificates and CAPE industry certifications the student seeks to attain before high school graduation.

(3) CAPE DIGITAL TOOL CERTIFICATES.— The department shall identify, by June 15 of each year, CAPE Digital Tool certificates that indicate a student's digital skills. The department shall notify each school district when the certificates are available. The certificates shall be made available to all public elementary and middle grades students.

(a) Targeted skills to be mastered for the certificate include digital skills that are necessary to the student's academic work and skills the student may need in future employment. The skills must include, but are not limited to, word processing; spreadsheets; presentations, including sound, motion, and color presentations; digital arts; cybersecurity; and coding consistent with CAPE industry certifications that are listed on the CAPE Industry Certification Funding List, pursuant to ss. 1003.492 and 1008.44. CAPE Digital Tool certificates earned by students are eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.a.

(b) The school district shall notify each middle school advisory council of the methods of delivery of the open-access content and assessments for the certificates. If there is no middle

school advisory council, notification must be provided to the district advisory council.

(c) The Legislature intends that by July 1, 2018, on an annual basis, at least 75 percent of public middle grades students earn at least one CAPE Digital Tool certificate.

(4) CAPE INDUSTRY CERTIFICATIONS.—

(a) CAPE industry certifications, issued to middle school and high school students, which do not articulate for college credit, are eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.b.

(b) CAPE industry certifications, issued to high school students, which articulate for college credit, are eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.b.

(5) CAPE INNOVATION AND CAPE ACCELERATION.—

(a) CAPE Innovation.—Up to five courses annually approved by the commissioner that combine academic and career content, and performance outcome expectations that, if achieved by a student, shall articulate for college credit and be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.c. Such approved courses must incorporate at least two third-party assessments that, if successfully completed by a student, shall articulate for college credit. At least one of the two third-party assessments must be associated with an industry certification that is identified on the CAPE Industry Certification Funding List. Each course that is approved by the commissioner must be specifically identified in the Course Code Directory as a CAPE Innovation Course.

(b) CAPE Acceleration.—Industry certifications, annually approved by the commissioner, that articulate for 15 or more college credit hours and, if successfully completed, shall be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.d. Each approved industry certification must be specifically identified in the CAPE Industry Certification Funding List as a CAPE Acceleration Industry Certification.

(6) GRADE POINT AVERAGE CALCULATION.—For purposes of calculating grade point average, a grade in a course that is level 3 or above and leads to an industry certification must be weighted the same as a grade in an honors course.

(7) TECHNICAL ASSISTANCE.—

(a) The Department of Education shall collaborate with Florida educators and school leaders to provide technical assistance to district school boards in the implementation of this section. Technical assistance to districts shall include, but is not limited to, identification of digital resources, primarily open-access resources, including digital curriculum, instructional materials, media assets, and other digital tools and applications; training mechanisms for teachers and others to facilitate integration of digital resources and technologies into instructional strategies; and model policies and procedures that support sustainable implementation practices.

(b) Public schools may provide students with access to third-party assessment centers and career and professional academy curricula in a digital format in support of CAPE Digital Tool certificates and CAPE industry certifications, pursuant to this section and s. 1008.44, to assist public schools and school districts to establish Florida Digital Classrooms.

(8) PARTNERSHIPS.—

(a) A district school board may seek partnerships with other school districts, private businesses, postsecondary institutions, or consultants to offer classes and instruction to teachers and students to assist the school district in providing digital materials, CAPE Digital Tool certificates, and CAPE industry certifications established pursuant to this section.

(b) Third-party assessment providers and career and professional academy curricula providers are encouraged to provide annual training to staff of the Department of Education, staff of school district offices, instructional staff of public schools, including charter schools, and other appropriate administrative staff through face-to-face training models; through online, video conferencing training models; and through state, regional, or conference presentations.

(9) RULES.—The State Board of Education shall adopt rules to administer this section.

History.—s. 17, ch. 2011-175; s. 14, ch. 2013-27; s. 4, ch. 2014-184.

<sup>1</sup>Note.—The word “through” was inserted by the editors to improve clarity.

**1003.4205 Disability history and awareness instruction.—**

(1) Each district school board may provide disability history and awareness instruction in all K-12 public schools in the district during the first 2 weeks in October each year. The district school board shall designate these 2 weeks as “Disability History and Awareness Weeks.”

(2)(a) During this 2-week period, students may be provided intensive instruction to expand their knowledge, understanding, and awareness of

individuals with disabilities, the history of disability, and the disability rights movement. Disability history may include the events and timelines of the development and evolution of services to, and the civil rights of, individuals with disabilities. Disability history may also include the contributions of specific individuals with disabilities, including the contributions of acknowledged national leaders.

(b) The instruction may be integrated into the existing school curriculum in ways including, but not limited to, supplementing lesson plans,

holding school assemblies, or providing other school-related activities. The instruction may be delivered by qualified school personnel or by knowledgeable guest speakers, with a particular focus on including individuals with disabilities.

(3) The goals of disability history and awareness instruction include:

(a) Better treatment for individuals with disabilities, especially for youth in school, and increased attention to preventing the bullying or harassment of students with disabilities.

(b) Encouragement to individuals with disabilities to develop increased self-esteem, resulting in more individuals with disabilities gaining pride in being an individual with a disability, obtaining postsecondary education, entering the workforce, and contributing to their communities.

(c) Reaffirmation of the local, state, and federal commitment to the full inclusion in society of, and the equal opportunity for, all individuals with disabilities.

History.—s. 1, ch. 2008-156.

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### **1003.4282 Requirements for a standard high school diploma.—**

(1) TWENTY-FOUR CREDITS REQUIRED.—

(a) Beginning with students entering grade 9 in the 2013-2014 school year, receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum.

(b) The required credits may be earned through equivalent, applied, or integrated courses or career education courses as defined in s. 1003.01(4), including work-related internships approved by the State Board of Education and identified in the course code directory. However, any must-pass assessment requirements must be met. An equivalent course is one or more courses identified by content-area experts as being a match to the core curricular content of another course, based upon review of the Next Generation Sunshine State Standards for that subject. An applied course aligns with Next Generation Sunshine State Standards and includes real-world applications of a career and technical education standard used in business or industry. An integrated course includes content from several courses within a content area or across content areas.

(2) NOTIFICATION REQUIREMENTS.—The school district must notify students and parents, in writing, of the requirements for a standard high school diploma, available designations, and the eligibility requirements for state scholarship programs and postsecondary admissions. The Department of Education shall directly and through the school districts notify registered private schools of public high school course credit and assessment requirements. Each private school must make this information available to students and their parents so they are aware of public high school graduation requirements.

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT REQUIREMENTS.—

(a) Four credits in English Language Arts (ELA).—The four credits must be in ELA I, II, III, and IV. A student must pass the statewide, standardized grade 10 Reading assessment or, when implemented, the grade 10 ELA assessment, or earn a concordant score, in order to earn a standard high

school diploma.

(b) Four credits in mathematics.—A student must earn one credit in Algebra I and one credit in Geometry. A student's performance on the statewide, standardized Algebra I end-of-course (EOC) assessment constitutes 30 percent of the student's final course grade. A student must pass the statewide, standardized Algebra I EOC assessment, or earn a comparative score, in order to earn a standard high school diploma. A student's performance on the statewide, standardized Geometry EOC assessment constitutes 30 percent of the student's final course grade. If the state administers a statewide, standardized Algebra II assessment, a student selecting Algebra II must take the assessment, and the student's performance on the assessment constitutes 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.

(c) Three credits in science.—Two of the three required credits must have a laboratory component. A student must earn one credit in Biology I and two credits in equally rigorous courses. The statewide, standardized Biology I EOC assessment constitutes 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit, except for Biology I.

(d) Three credits in social studies.—A student must earn one credit in United States History; one credit in World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government. The United States History EOC assessment constitutes 30 percent of the student's final course grade.

(e) One credit in fine or performing arts, speech and debate, or practical arts.—The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible practical arts courses are identified in the Course Code Directory.

(f) One credit in physical education.—Physical education must include the integration of health. Participation in an interscholastic sport at the junior varsity or varsity level for two full seasons shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of “C” or better. The competency test on personal fitness developed by the Department of Education must be used. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of “C” or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a dance class shall satisfy one-half credit in physical education or one-half credit in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan. Completion of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class, a significant component of which is drills, shall satisfy the one-credit requirement in physical education and the one-credit requirement in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an IEP or 504 plan.

(g) Eight credits in electives.—School districts must develop and offer coordinated electives so that a student may develop knowledge and skills in his or her area of interest, such as electives with a STEM or liberal arts focus. Such electives must include opportunities for students to earn college credit, including industry-certified career education programs or series of career-themed courses that result in industry certification or articulate into the award of college credit, or career education courses for which there is a statewide or local articulation agreement and which lead to college credit.

(4) ONLINE COURSE REQUIREMENT.—At least one course within the 24 credits required under this section must be completed through online learning. A school district may not require a student to take the online course outside the school day or in addition to a student’s courses for a given semester. An online course taken in grade 6, grade 7, or grade 8 fulfills this requirement. This requirement is met through an online course offered by the Florida Virtual School, a virtual education provider approved by the State Board of Education, a high school, or an online dual enrollment course. A student who is enrolled in a full-time or part-time virtual instruction program under s. 1002.45 meets this requirement. This requirement does not apply to a student who has an individual education plan under s. 1003.57 which indicates that an online course would be inappropriate or to an out-of-state

transfer student who is enrolled in a Florida high school and has 1 academic year or less remaining in high school.

(5) REMEDIATION FOR HIGH SCHOOL STUDENTS.—

(a) Each year a student scores Level 1 or Level 2 on the statewide, standardized grade 9 or grade 10 Reading assessment or, when implemented, the grade 9, grade 10, or grade 11 ELA assessment, the student must be enrolled in and complete an intensive remedial course the following year or be placed in a content area course that includes remediation of skills not acquired by the student.

(b) Each year a student scores Level 1 or Level 2 on the statewide, standardized Algebra I EOC assessment, the student must be enrolled in and complete an intensive remedial course the following year or be placed in a content area course that includes remediation of skills not acquired by the student.

(6) GRADE FORGIVENESS POLICY.—Each district school board shall adopt policies designed to assist students in meeting graduation requirements including grade forgiveness policies. Forgiveness policies for required courses shall be limited to replacing a grade of “D” or “F” with a grade of “C” or higher earned subsequently in the same or comparable course. Forgiveness policies for elective courses shall be limited to replacing a grade of “D” or “F” with a grade of “C” or higher earned subsequently in another course. The only exception to these forgiveness policies shall be made for a student in the middle grades who takes any high school course for high school credit and earns a grade of “C,” “D,” or “F”. In such case, the district forgiveness policy must allow the replacement of the grade with a grade of “C” or higher earned subsequently in the same or comparable course. In all cases of grade forgiveness, only the new grade shall be used in the calculation of the student’s grade point average. Any course grade not replaced according to a district school board forgiveness policy shall be included in the calculation of the cumulative grade point average required for graduation.

(7) AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.—

(a) A student who earns a cumulative grade point average (GPA) of 2.0 on a 4.0 scale and meets the requirements of this section or s. 1002.3105(5) shall be awarded a standard high school diploma in a form prescribed by the State Board of Education.

(b) An adult student in an adult general education program as provided under s. 1004.93 shall be awarded a standard high school diploma if the student meets the requirements of this section or s. 1002.3105(5), except that:

1. One elective credit may be substituted for the one-credit requirement in fine or performing arts, speech and debate, or practical arts.



2. The requirement that two of the science credits include a laboratory component may be waived by the district school board.

3. The one credit in physical education may be substituted with an elective credit.

(c) A student who earns the required 24 credits, or the required 18 credits under s. 1002.3105(5), but fails to pass the assessments required under s. 1008.22(3) or achieve a 2.0 GPA shall be awarded a certificate of completion in a form prescribed by the State Board of Education. However, a student who is otherwise entitled to a certificate of completion may elect to remain in high school either as a full-time student or a part-time student for up to 1 additional year and receive special instruction designed to remedy his or her identified deficiencies.

(8) **UNIFORM TRANSFER OF HIGH SCHOOL CREDITS.**—Beginning with the 2012-2013 school year, if a student transfers to a Florida public high school from out of country, out of state, a private school, or a home education program and the student's transcript shows a credit in Algebra I, the student must pass the statewide, standardized Algebra I EOC assessment in order to earn a standard high school diploma unless the student earned a comparative score, passed a statewide assessment in Algebra I administered by the transferring entity, or passed the statewide mathematics assessment the transferring entity uses to satisfy the requirements of the Elementary and Secondary Education Act, 20 U.S.C. s. 6301. If a student's transcript shows a credit in high school reading or English Language Arts II or III, in order to earn a standard high school diploma, the student must take and pass the statewide, standardized grade 10 Reading assessment or, when implemented, the grade 10 ELA assessment, or earn a concordant score. If a transfer student's transcript shows a final course grade and course credit in Algebra I, Geometry, Biology I, or United States History, the transferring course final grade and credit shall be honored without the student taking the requisite statewide, standardized EOC assessment and without the assessment results constituting 30 percent of the student's final course grade.

(9) **CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL CREDIT REQUIREMENTS.**—

(a) Participation in career education courses engages students in their high school education, increases academic achievement, enhances employability, and increases postsecondary success. By July 1, 2014, the department shall develop, for approval by the State Board of Education, multiple, additional career education courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection and allow students to earn credit in both the career education course and courses required for high school graduation under this section and s. 1003.4281.

1. The state board must determine if sufficient academic standards are covered to warrant the award of academic credit.

2. Career education courses must include workforce and digital literacy skills and the integration of required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related internships or apprenticeships. The department shall negotiate state licenses for material and testing for industry certifications. The instructional methodology used in these courses must be comprised of authentic projects, problems, and activities for contextually learning the academics.

(b) Each school district should take the initiative to work with local workforce boards, local business and industry leaders, and postsecondary institutions to establish partnerships for the purpose of creating career education courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) that students can take to earn required high school course credits. Emphasis should be placed on online coursework and digital literacy. School districts must submit their recommended career education courses to the department for state board approval. School district-recommended career education courses must meet the same rigorous standards as department-developed career education courses in order to be approved by the state board. School districts participating in the development of rigorous career education courses will be able to better address local workforce needs and allow students the opportunity to acquire the knowledge and skills that are needed not only for academic advancement but also for employability purposes.

(c) Regional consortium service organizations established pursuant to s. 1001.451 shall work with school districts, local workforce boards, postsecondary institutions, and local business and industry leaders to create career education courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection that students can take to earn required high school course credits. The regional consortium shall submit course recommendations to the department, on behalf of the consortium member districts, for state board approval. A strong emphasis should be placed on online coursework, digital literacy, and workforce literacy as defined in s. 1004.02(26). For purposes of providing students the opportunity to earn industry certifications, consortiums must secure the necessary site licenses and testing contracts for use by member districts.

(10) **COHORT TRANSITION TO NEW GRADUATION REQUIREMENTS.**—The requirements of this



section, in addition to applying to students entering grade 9 in the 2013-2014 school year and thereafter, shall also apply to students entering grade 9 before the 2013-2014 school year, except as otherwise provided in this subsection.

(a) A student entering grade 9 before the 2010-2011 school year must earn:

1. Four credits in English/ELA. A student must pass the statewide, standardized grade 10 Reading assessment, or earn a concordant score, in order to graduate with a standard high school diploma.

2. Four credits in mathematics, which must include Algebra I. A student must pass grade 10 FCAT Mathematics, or earn a concordant score, in order to graduate with a standard high school diploma. A student who takes Algebra I or Geometry after the 2010-2011 school year must take the statewide, standardized EOC assessment for the course but is not required to pass the assessment in order to earn course credit. A student's performance on the Algebra I or Geometry EOC assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I.

3. Three credits in science, two of which must have a laboratory component. A student who takes Biology I after the 2010-2011 school year must take the statewide, standardized Biology I EOC assessment but is not required to pass the assessment in order to earn course credit. A student's performance on the assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit.

4. Three credits in social studies of which one credit in World History, one credit in United States History, one-half credit in United States Government, and one-half credit in economics are required. A student who takes United States History after the 2011-2012 school year must take the statewide, standardized United States History EOC assessment, but the student's performance on the assessment is not required to constitute 30 percent of the student's final course grade.

5. One credit in fine or performing arts, speech and debate, or practical arts as provided in paragraph (3)(e).

6. One credit in physical education as provided in paragraph (3)(f).

7. Eight credits in electives.

(b) A student entering grade 9 in the 2010-2011 school year must earn:

1. Four credits in English/ELA. A student must pass the statewide, standardized grade 10 Reading assessment, or earn a concordant score, in order to graduate with a standard high school diploma.

2. Four credits in mathematics, which must include Algebra I and Geometry. The statewide, standardized Algebra I EOC assessment constitutes 30 percent of the student's final course grade. A student who takes Algebra I or Geometry after the 2010-2011 school year must take the statewide, standardized EOC assessment for the course but is not required to pass the assessment in order to earn course credit. A student's performance on the Geometry EOC assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.

3. Three credits in science, two of which must have a laboratory component. A student who takes Biology I after the 2010-2011 school year must take the statewide, standardized Biology I EOC assessment but is not required to pass the assessment in order to earn course credit. A student's performance on the assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit, except for Biology I.

4. Three credits in social studies of which one credit in World History, one credit in United States History, one-half credit in United States Government, and one-half credit in economics are required. A student who takes United States History after the 2011-2012 school year must take the statewide, standardized United States History EOC assessment, but the student's performance on the assessment is not required to constitute 30 percent of the student's final course grade.

5. One credit in fine or performing arts, speech and debate, or practical arts as provided in paragraph (3)(e).

6. One credit in physical education as provided in paragraph (3)(f).

7. Eight credits in electives.

(c) A student entering grade 9 in the 2011-2012 school year must earn:

1. Four credits in English/ELA. A student must pass the statewide, standardized grade 10 Reading assessment, or earn a concordant score, in order to graduate with a standard high school diploma.

2. Four credits in mathematics, which must include Algebra I and Geometry. A student who takes Algebra I after the 2010-2011 school year

must pass the statewide, standardized Algebra I EOC assessment, or earn a comparative score, in order to earn a standard high school diploma. A student who takes Algebra I or Geometry after the 2010-2011 school year must take the statewide, standardized EOC assessment but is not required to pass the Algebra I or Geometry EOC assessment in order to earn course credit. A student's performance on the Algebra I or Geometry EOC assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.

3. Three credits in science, two of which must have a laboratory component. One of the science credits must be Biology I. A student who takes Biology I after the 2010-2011 school year must take the statewide, standardized Biology I EOC assessment but is not required to pass the assessment in order to earn course credit. A student's performance on the assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit, except for Biology I.

4. Three credits in social studies of which one credit in World History, one credit in United States History, one-half credit in United States Government, and one-half credit in economics are required. A student who takes United States History after the 2011-2012 school year must take the statewide, standardized United States History EOC assessment, but the student's performance on the assessment is not required to constitute 30 percent of the student's final course grade.

5. One credit in fine or performing arts, speech and debate, or practical arts as provided in paragraph (3)(e).

6. One credit in physical education as provided in paragraph (3)(f).

7. Eight credits in electives.

8. One online course as provided in subsection (4).

(d) A student entering grade 9 in the 2012-2013 school year must earn:

1. Four credits in English/ELA. A student must pass the statewide, standardized grade 10 Reading assessment, or earn a concordant score, in order to graduate with a standard high school diploma.

2. Four credits in mathematics, which must include Algebra I and Geometry. A student who takes Algebra I after the 2010-2011 school year must pass the statewide, standardized Algebra I EOC assessment, or earn a comparative score, in

order to earn a standard high school diploma. A student who takes Geometry after the 2010-2011 school year must take the statewide, standardized Geometry EOC assessment. A student is not required to pass the statewide, standardized EOC assessment in Algebra I or Geometry in order to earn course credit. A student's performance on the Algebra I or Geometry EOC assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.

3. Three credits in science, two of which must have a laboratory component. One of the science credits must be Biology I. A student who takes Biology I after the 2010-2011 school year must take the statewide, standardized Biology I EOC assessment but is not required to pass the assessment to earn course credit. A student's performance on the assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit, except for Biology I.

4. Three credits in social studies of which one credit in World History, one credit in United States History, one-half credit in United States Government, and one-half credit in economics are required. The statewide, standardized United States History EOC assessment constitutes 30 percent of the student's final course grade.

5. One credit in fine or performing arts, speech and debate, or practical arts as provided in paragraph (3)(e).

6. One credit in physical education as provided in paragraph (3)(f).

7. Eight credits in electives.

8. One online course as provided in subsection (4).

(e) Policy adopted in rule by the district school board may require for any cohort of students that performance on a statewide, standardized EOC assessment constitute 30 percent of a student's final course grade.

(f) This subsection is repealed July 1, 2020.

(11) STUDENTS WITH DISABILITIES.—Beginning with students entering grade 9 in the 2014-2015 school year, this subsection applies to a student with a disability.

(a) A parent of the student with a disability shall, in collaboration with the individual education plan (IEP) team during the transition planning process pursuant to s. 1003.5716, declare an intent for the student to graduate from high school with

either a standard high school diploma or a certificate of completion. A student with a disability who does not satisfy the standard high school diploma requirements pursuant to this section shall be awarded a certificate of completion.

(b) The following options, in addition to the other options specified in this section, may be used to satisfy the standard high school diploma requirements, as specified in the student's individual education plan:

1. For a student with a disability for whom the IEP team has determined that the Florida Alternate Assessment is the most appropriate measure of the student's skills:

a. A combination of course substitutions, assessments, industry certifications, other acceleration options, or occupational completion points appropriate to the student's unique skills and abilities that meet the criteria established by State Board of Education rule.

b. A portfolio of quantifiable evidence that documents a student's mastery of academic standards through rigorous metrics established by State Board of Education rule. A portfolio may include, but is not limited to, documentation of work experience, internships, community service, and postsecondary credit.

2. For a student with a disability for whom the IEP team has determined that mastery of academic and employment competencies is the most appropriate way for a student to demonstrate his or her skills:

a. Documented completion of the minimum high school graduation requirements, including the number of course credits prescribed by rules of the State Board of Education.

b. Documented achievement of all annual goals and short-term objectives for academic and employment competencies, industry certifications, and occupational completion points specified in the student's transition plan. The documentation must be verified by the IEP team.

c. Documented successful employment for the number of hours per week specified in the student's transition plan, for the equivalent of 1 semester, and payment of a minimum wage in compliance with the requirements of the federal Fair Labor Standards Act.

d. Documented mastery of the academic and employment competencies, industry certifications, and occupational completion points specified in the student's transition plan. The documentation must be verified by the IEP team, the employer, and the teacher. The transition plan must be developed and signed by the student, parent, teacher, and employer before placement in employment and must identify the following:

(I) The expected academic and employment competencies, industry certifications, and occupational completion points;

(II) The criteria for determining and certifying mastery of the competencies;

(III) The work schedule and the minimum number of hours to be worked per week; and

(IV) A description of the supervision to be provided by the school district.

3. Any change to the high school graduation option specified in the student's IEP must be approved by the parent and is subject to verification for appropriateness by an independent reviewer selected by the parent as provided in s. 1003.572.

(c) A student with a disability who meets the standard high school diploma requirements in this section may defer the receipt of a standard high school diploma if the student:

1. Has an individual education plan that prescribes special education, transition planning, transition services, or related services through age 21; and

2. Is enrolled in accelerated college credit instruction pursuant to s. 1007.27, industry certification courses that lead to college credit, a collegiate high school program, courses necessary to satisfy the Scholar designation requirements, or a structured work-study, internship, or preapprenticeship program.

(d) A student with a disability who receives a certificate of completion and has an individual education plan that prescribes special education, transition planning, transition services, or related services through 21 years of age may continue to receive the specified instruction and services.

(e) Any waiver of the statewide, standardized assessment requirements by the individual education plan team, pursuant to s. 1008.22(3)(c), must be approved by the parent and is subject to verification for appropriateness by an independent reviewer selected by the parent as provided for in s. 1003.572.

<sup>2</sup>The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to implement this paragraph, including rules that establish the minimum requirements for students described in this paragraph to earn a standard high school diploma. The State Board of Education shall adopt emergency rules pursuant to ss. 120.536(1) and 120.54.

(12) RULES.—The State Board of Education shall adopt rules to implement this section.

History.—s. 17, ch. 2013-27; s. 40, ch. 2014-39; ss. 33, 34, ch. 2014-184.

<sup>1</sup>Note.—The word "student" following the word "year" was deleted by the editors.

<sup>3</sup>Note.—Similar language to what became subsection (11) appears in s. 5, C.S. for C.S. for S.B. 1512, which did not pass; in that text, the flush left language appeared after paragraph (b) of the subsection. The language was inserted after paragraph (e) in C.S. for C.S. for S.B. 850, which became ch. 2014-184.

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**1003.4285 Standard high school diploma designations.—**

(1) Each standard high school diploma shall include, as applicable, the following designations if the student meets the criteria set forth for the designation:

(a) Scholar designation.—In addition to the requirements of s. 1003.4282, in order to earn the Scholar designation, a student must satisfy the following requirements:

1. English Language Arts (ELA).—Beginning with students entering grade 9 in the 2014-2015 school year, pass the statewide, standardized grade 11 ELA assessment.

2. Mathematics.—Earn one credit in Algebra II and one credit in statistics or an equally rigorous course. Beginning with students entering grade 9 in the 2014-2015 school year, pass the Algebra II and Geometry statewide, standardized assessments.

3. Science.—Pass the statewide, standardized Biology I EOC assessment and earn one credit in chemistry or physics and one credit in a course equally rigorous to chemistry or physics. However, a student enrolled in an Advanced Placement (AP), International Baccalaureate (IB), or Advanced International Certificate of Education (AICE) Biology course who takes the respective AP, IB, or AICE Biology assessment and earns the minimum score necessary to earn college credit as identified pursuant to s. 1007.27(2) meets the requirement of this subparagraph without having to take the statewide, standardized Biology I EOC assessment.

4. Social studies.—Pass the statewide, standardized United States History EOC assessment. However, a student enrolled in an AP, IB, or AICE course that includes United States History topics who takes the respective AP, IB, or AICE assessment and earns the minimum score necessary to earn college credit as identified pursuant to s. 1007.27(2) meets the requirement of this subparagraph without having to take the statewide, standardized United States History EOC assessment.

5. Foreign language.—Earn two credits in the same foreign language.

6. Electives.—Earn at least one credit in an Advanced Placement, an International Baccalaureate, an Advanced International Certificate of Education, or a dual enrollment course.

(b) Merit designation.—In addition to the requirements of s. 1003.4282, in order to earn the Merit designation, a student must attain one or more industry certifications from the list established under s. 1003.492.

(2) Students and parents shall be provided information about diploma designations through an online education and career planning tool, which allows students to monitor their progress toward the attainment of each designation.

(3) The State Board of Education may make recommendations to the Legislature regarding the establishment of additional designations.

History.—s. 8, ch. 2008-235; s. 4, ch. 2009-40; s. 464, ch. 2011-142; s. 18, ch. 2013-27; s. 8, ch. 2013-35; s. 41, ch. 2014-39.

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**1003.433 Learning opportunities for out-of-state and out-of-country transfer students and students needing additional instruction to meet high school graduation requirements.—**

(1) Students who enter a Florida public school at the 11th or 12th grade from out of state or out of country shall not be required to spend additional time in a Florida public school in order to meet the high school course requirements if the student has met all requirements of the school district, state, or country from which he or she is transferring. Such students who are not proficient in English should receive immediate and intensive instruction in English language acquisition. However, to receive a standard high school diploma, a transfer student must earn a 2.0 grade point average and meet the requirements under s. 1008.22.

(2) Students who earn the required 24 credits for the standard high school diploma except for passage of any must-pass assessment under s. 1003.4282 or s. 1008.22 or an alternate assessment by the end of grade 12 must be provided the following learning opportunities:

(a) Participation in an accelerated high school equivalency diploma preparation program during the summer.

(b) Upon receipt of a certificate of completion, be allowed to take the College Placement Test and be admitted to developmental education or credit courses at a Florida College System institution, as appropriate.

(c) Participation in an adult general education program as provided in s. 1004.93 for such time as the student requires to master English, reading, mathematics, or any other subject required for high school graduation. A student attending an adult general education program shall have the opportunity to take any must-pass assessment under s. 1003.4282 or s. 1008.22 an unlimited number of times in order to receive a standard high school diploma.

(3) Students who have been enrolled in an ESOL program for less than 2 school years and have met all requirements for the standard high school diploma except for passage of any must-pass assessment under s. 1003.4282 or s. 1008.22 or alternate assessment may receive immersion English language instruction during the summer following their senior year. Students receiving such instruction are eligible to take the required assessment or alternate assessment and receive a standard high school diploma upon passage of the required assessment

or alternate assessment. This subsection shall be implemented to the extent funding is provided in the General Appropriations Act.

History.—s. 1, ch. 2003-413; s. 11, ch. 2008-235; s. 34, ch. 2011-5; s. 23, ch. 2013-27; s. 10, ch. 2013-35; s. 7, ch. 2013-51.

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**1003.435 High school equivalency diploma program.—**

(1) The State Board of Education shall adopt rules that prescribe performance standards and provide for comprehensive examinations to be administered to candidates for high school equivalency diplomas. Such rules shall include, but are not limited to, provisions for fees, frequency of examinations, and procedures for retaking an examination upon unsatisfactory performance.

(2) The department may award high school equivalency diplomas to candidates who meet the performance standards prescribed by the State Board of Education.

(3) Each district school board shall offer and administer the high school equivalency diploma examinations and the subject area examinations to all candidates pursuant to rules of the State Board of Education.

(4) A candidate for a high school equivalency diploma shall be at least 18 years of age on the date of the examination, except that in extraordinary circumstances, as provided for in rules of the district school board of the district in which the

candidate resides or attends school, a candidate may take the examination after reaching the age of 16.

(5) Each district school board shall develop, in cooperation with the area Florida College System institution board of trustees, a plan for the provision of advanced instruction for those students who attain satisfactory performance on the high school equivalency examination or the subject area examinations or who demonstrate through other means a readiness to engage in postsecondary-level academic work. The plan shall include provisions for the equitable distribution of generated funds to cover personnel, maintenance, and other costs of offering the advanced instruction. Priority shall be given to programs of advanced instruction offered in high school facilities.

(6) All high school equivalency diplomas issued under the provisions of this section shall have equal status with other high school diplomas for all state purposes, including admission to any state university or Florida College System institution.

History.—s. 133, ch. 2002-387; s. 35, ch. 2011-5; s. 24, ch. 2013-27.

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**1003.436 Definition of “credit.”—**

(1)(a) For the purposes of requirements for high school graduation, one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards, except as otherwise provided through the Credit Acceleration Program (CAP) under s. 1003.4295(3). One full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards for purposes of meeting high school graduation requirements in a district school that has been authorized to implement block scheduling by the district school board. The State Board of Education shall determine the number of postsecondary credit hours earned through dual enrollment pursuant to s. 1007.271 that satisfy the requirements of a dual enrollment articulation agreement according to s. 1007.271(21) and that equal one full credit of the equivalent high school course identified pursuant to s. 1007.271(9).

(b) The hourly requirements for one-half credit are one-half the requirements specified in paragraph (a).

(2) In awarding credit for high school graduation, each district school board shall maintain a one-half credit earned system that shall include courses provided on a full-year basis. A student enrolled in a full-year course shall receive one-half credit if the student successfully completes either the first half or the second half of a full-year course but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would not result in a passing grade. A student enrolled in a full-year course shall receive a full credit if the student successfully completes either the first half or the second half of a full-year course but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would result in a passing grade, provided that such additional requirements specified in district school board policies, such as class attendance, homework, participation, and other indicators of performance, shall be successfully completed by the student.

History.—s. 134, ch. 2002-387; s. 14, ch. 2003-391; s. 11, ch. 2012-191; s. 25, ch. 2013-27.

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**1003.437 Middle and high school grading system.—**The grading system and interpretation of letter grades used to measure student success in grade 6 through grade 12 courses for students in public schools shall be as follows:

(1) Grade “A” equals 90 percent through 100 percent, has a grade point average value of 4, and

is defined as “outstanding progress.”

(2) Grade “B” equals 80 percent through 89 percent, has a grade point average value of 3, and is defined as “above average progress.”

(3) Grade “C” equals 70 percent through 79 percent, has a grade point average value of 2, and



is defined as “average progress.”

(4) Grade “D” equals 60 percent through 69 percent, has a grade point average value of 1, and is defined as “lowest acceptable progress.”

(5) Grade “F” equals zero percent through 59 percent, has a grade point average value of zero, and is defined as “failure.”

(6) Grade “I” equals zero percent, has a

grade point average value of zero, and is defined as “incomplete.”

For the purposes of class ranking, district school boards may exercise a weighted grading system pursuant to s. 1007.271.

History.—s. 135, ch. 2002-387; s. 25, ch. 2006-74; s. 12, ch. 2012-191.

**1003.438 Special high school graduation requirements for certain exceptional students.**—A student who has been identified, in accordance with rules established by the State Board of Education, as a student with disabilities who has an intellectual disability; an autism spectrum disorder; a language impairment; an orthopedic impairment; an other health impairment; a traumatic brain injury; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; or students who are deaf or hard of hearing or dual sensory impaired shall not be required to meet all requirements of s. 1002.3105(5), s. 1003.4281, or s. 1003.4282 and shall, upon meeting all applicable requirements prescribed by the district school board pursuant to s. 1008.25, be awarded a special diploma in a form prescribed by the commissioner; however, such special graduation requirements prescribed by the district school board must include minimum graduation requirements as prescribed by the commissioner. Any such student who meets all special requirements of the district school board, but is unable to meet the appropriate special state minimum requirements, shall be awarded a special certificate of completion in a form prescribed by

the commissioner. However, this section does not limit or restrict the right of an exceptional student solely to a special diploma or special certificate of completion. Any such student shall, upon proper request, be afforded the opportunity to fully meet all requirements of s. 1002.3105(5), s. 1003.4281, or s. 1003.4282 through the standard procedures established therein and thereby to qualify for a standard diploma upon graduation.

History.—s. 136, ch. 2002-387; s. 5, ch. 2008-204; s. 26, ch. 2013-27; s. 47, ch. 2013-35; s. 42, ch. 2014-39; s. 19, ch. 2014-184.

<sup>1</sup>Note.—

A. Repealed July 1, 2015, by s. 19, ch. 2014-184.

B. Section 27, ch. 2014-184, provides that “[t]he amendments made by this act to ss. 1003.438 and 409.1451, Florida Statutes, do not apply to a student with disabilities, as defined in s. 1003.438, Florida Statutes, who is eligible for and currently participating in the Road to Independence Program, as of the effective date of this act. Such student shall continue to participate in the program as long as he or she meets the eligibility criteria in effect as of the effective date of this act.”

C. Section 28, ch. 2014-184, provides that “[t]he amendment made by this act to s. 1003.438, Florida Statutes, does not apply to a student with disabilities, as defined in s. 1003.438, Florida Statutes, whose individual education plan, as of the effective date of this act, contains a statement of intent to receive a special diploma. Such student shall be awarded a special diploma in a form prescribed by the Commissioner of Education if the student meets the requirements specified in s. 1003.438, Florida Statutes, and in effect as of the effective date of this act. Any such student who meets all special requirements of the district school board in effect as of the effective date of this act, but who is unable to meet the appropriate special state minimum requirements in effect as of the effective date of this act, shall be awarded a special certificate of completion in a form prescribed by the Commissioner of Education.”

**1003.49 Graduation and promotion requirements for publicly operated schools.**—

(1) Each state or local public agency, including the Department of Children and Families, the Department of Corrections, the boards of trustees of universities and Florida College System institutions, and the Board of Trustees of the Florida School for the Deaf and the Blind, which agency is authorized to operate educational programs for students at any level of grades kindergarten through 12, shall be subject to all applicable requirements of ss. 1002.3105(5), 1003.4281, 1003.4282, 1008.23, and 1008.25. Within the

content of these cited statutes each such state or local public agency or entity shall be considered a “district school board.”

(2) The Commissioner of Education shall establish procedures to extend the state-administered assessment program to school programs operated by such state or local public agencies or entities in the same manner and to the same extent as such program is administered in each district school system.

History.—s. 142, ch. 2002-387; s. 36, ch. 2011-5; s. 48, ch. 2013-35; s. 180, ch. 2014-17; s. 367, ch. 2014-19; s. 44, ch. 2014-39.

**1003.499 Florida Approved Courses and Tests (FACT) Initiative.**—

(1) PURPOSE.—

(a) The purpose of the initiative shall be to make available multiple options to suit unique student interests, satisfy educational requirements, and accelerate student accomplishment of goals in a productive and effective manner. The Legislature intends that state and local rules, policies, and administrative decisions are flexible in interpreting

and implementing the requirements in this section in order to encourage creative, innovative, resourceful, and forward-thinking practices that can be modeled throughout this state and the country.

(b) Beginning in the 2015-2016 school year, the Florida Approved Courses and Tests (FACT) Initiative shall be implemented to expand student choices in selecting high-quality online courses, including, but not limited to, massive open online courses and instruction included under subsec-

tion (2) for promotion or graduation. Such courses and instruction may be provided using a blended learning model that shall include components such as differentiated instruction, flexible scheduling, differentiated teaching, and self-paced learning. Instruction through the blended learning model may be provided using online instructional videos, online class forums, and online homework assignments and projects, coupled with one-on-one direct instructional support to students.

(2) **FLORIDA APPROVED COURSES.**—The Department of Education shall annually publish online a list of providers approved to offer Florida approved courses which shall be listed in the online catalog pursuant to s. 1002.321(6).

(a) As used in this section, the term “Florida approved courses” means online courses provided by individuals which include, but are not limited to, massive open online courses or remedial education associated with the courses that are measured pursuant to s. 1008.22. Massive open online courses may be authorized in the following subject areas: Algebra I, biology, geometry, and civics. Courses may be applied toward requirements for promotion or graduation in whole, in subparts, or in a combination of whole and subparts. A student may not be required to repeat subparts that are satisfactorily completed.

(b) A Florida approved course must be annually identified, approved, published, and shared for consideration by interested students and school districts. The Commissioner of Education shall approve each Florida approved course for application in K-12 public schools in accordance with rules of the State Board of Education.

(3) **PROVIDER REQUIREMENTS.**—

(a) To be approved by the Department of Education, an individual provider must provide all the following documentation that demonstrates that he or she:

1. Is nonsectarian regarding courses, enrollment policies, employment practices, and operations.
2. Complies with the antidiscrimination provisions of s. 1000.05.
3. Requires all instructional staff to be Florida-certified teachers under chapter 1012 or certified as adjunct educators under s. 1012.57 and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records.
4. Provides to parents and students specific information posted and accessible online which includes, but is not limited to, the following teacher-parent and teacher-student contact information for each course:
  - a. How to contact the instructor via telephone, e-mail, or online messaging tools.
  - b. How to contact technical support via telephone, e-mail, or online messaging tools.
  - c. How to contact the administration office or an individual offering online courses, including, but not limited to, massive open online courses, via telephone, e-mail, or online messaging tools.
  - d. Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.

c. How to contact the administration office or an individual offering online courses, including, but not limited to, massive open online courses, via telephone, e-mail, or online messaging tools.

d. Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.

5. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains or student growth in each subject area and grade level provided for consideration as an instructional program option. However, for a provider without sufficient prior, successful experience offering online courses, the department may conditionally approve the provider to offer courses measured by the statewide assessment program pursuant to s. 1008.22. Conditional approval is valid for 1 year. Renewal of provider approval is contingent on sufficient performance data available demonstrating success in accordance with this section and State Board of Education rule.

6. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level that the provider intends to provide through contract with the school district, including all of the following:

a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.

b. Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.

c. Mechanisms that determine and ensure that a student has satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate.

7. Publishes for the general public, in accordance with disclosure requirements adopted in rule by the State Board of Education, as part of the application as a provider and in all contracts negotiated pursuant to this section all of the following information:

a. Certification status and physical location of all administrative and instructional personnel.

b. Hours and times of availability of instructional personnel.

c. Student-teacher ratios.

d. Student completion and promotion rates.

e. Student, educator, and school performance accountability outcomes.

(b) Each approved provider contracted under this section must participate in the statewide assessment program under s. 1008.22 and in the state’s education performance accountability system under s. 1008.31.

History.—s. 5, ch. 2013-225.

**1003.4995 Fine arts report.**—The Commissioner of Education shall prepare an annual report that includes a description, based on annual reporting by schools, of student access to and participation in fine arts courses, which are visual arts, music, dance, and theatre courses; the number and certification status of educators providing instruction in the courses; educational facilities designed and

classroom space equipped for fine arts instruction; and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards. The report shall be posted on the Department of Education's website and updated annually.

History.—s. 35, ch. 2014-184.

**1003.51 Other public educational services.—**

(1) The general control of other public educational services shall be vested in the State Board of Education except as provided in this section. The State Board of Education shall, at the request of the Department of Children and Families and the Department of Juvenile Justice, advise as to standards and requirements relating to education to be met in all state schools or institutions under their control which provide educational programs. The Department of Education shall provide supervisory services for the educational programs of all such schools or institutions. The direct control of any of these services provided as part of the district program of education shall rest with the district school board. These services shall be supported out of state, district, federal, or other funds, depending on the requirements of the services being supported.

(2) The State Board of Education shall adopt rules articulating expectations for effective education programs for students in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice prevention, day treatment, residential, and detention programs. The rule shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, Workforce Florida, Inc., district school boards, and providers of education services to students in Department of Juvenile Justice programs.

(c) Academic expectations.

(d) Career expectations.

(e) Education transition planning and services.

(f) Service delivery options available to district school boards, including direct service and contracting.

(g) Assessment procedures, which:

1. For prevention, day treatment, and residential programs, include appropriate academic and career assessments administered at program entry and exit that are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, district

school boards, and education providers. Assessments must be completed within the first 10 school days after a student's entry into the program.

2. Provide for determination of the areas of academic need and strategies for appropriate intervention and instruction for each student in a detention facility within 5 school days after the student's entry into the program and administer a research-based assessment that will assist the student in determining his or her educational and career options and goals within 22 school days after the student's entry into the program.

The results of these assessments, together with a portfolio depicting the student's academic and career accomplishments, shall be included in the discharge packet assembled for each student.

(h) Recommended instructional programs, including, but not limited to:

1. Secondary education.

2. High school equivalency examination preparation.

3. Postsecondary education.

4. Career and professional education (CAPE).

5. Job preparation.

6. Virtual education that:

a. Provides competency-based instruction that addresses the unique academic needs of the student through delivery by an entity accredited by AdvanceED or the Southern Association of Colleges and Schools.

b. Confers certifications and diplomas.

c. Issues credit that articulates with and transcripts that are recognized by secondary schools.

d. Allows the student to continue to access and progress through the program once the student leaves the juvenile justice system.

(i) Funding requirements, which shall include the requirement that at least 90 percent of the FEFP funds generated by students in Department of Juvenile Justice programs or in an education program for juveniles under s. 985.19 be spent on instructional costs for those students. One hundred percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs must be spent on appropriate categoricals such as instructional materials and public school technology for those students.

(j) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures for consistent instruction and qualified

staff year round. Qualifications shall include those for instructors of CAPE courses, standardized across the state, and shall be based on state certification, local school district approval, and industry-recognized certifications as identified on the Industry Certification Funding List. Procedures for the use of noncertified instructional personnel who possess expert knowledge or experience in their fields of instruction shall be established.

(k) Transition services, including the roles and responsibilities of appropriate personnel in the juvenile justice education program, the school district where the student will reenter, provider organizations, and the Department of Juvenile Justice.

(l) Procedures and timeframe for transfer of education records when a student enters and leaves a Department of Juvenile Justice education program.

(m) The requirement that each district school board maintain an academic transcript for each student enrolled in a juvenile justice education program that delineates each course completed by the student as provided by the State Course Code Directory.

(n) The requirement that each district school board make available and transmit a copy of a student's transcript in the discharge packet when the student exits a juvenile justice education program.

(o) Contract requirements.

(p) Performance expectations for providers and district school boards, including student performance measures by type of program, education program performance ratings, school improvement, and corrective action plans for low-performing programs.

(q) The role and responsibility of the district school board in securing workforce development funds.

(r) A series of graduated sanctions for district school boards whose educational programs in Department of Juvenile Justice programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice program is performing below minimum standards and, after 6 months, is still performing below minimum standards.

(s) Curriculum, guidance counseling, transition, and education services expectations, including curriculum flexibility for detention centers operated by the Department of Juvenile Justice.

(t) Other aspects of program operations.

(3) The Department of Education in partnership with the Department of Juvenile Justice, the district school boards, and providers shall:

(a) Develop and implement requirements for contracts and cooperative agreements regarding the delivery of appropriate education services to students in Department of Juvenile Justice education programs. The minimum contract requirements shall include, but are not limited to, payment structure and amounts; access to district services; contract management provisions; data reporting requirements, including reporting of full-time equivalent student membership; administration of federal programs such as Title I, exceptional student education, and the Carl D. Perkins Career and Technical Education Act of 2006; and the policy and standards included in subsection (2).

(b) Develop and implement procedures for transitioning students into and out of Department of Juvenile Justice education programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Maintain standardized required content of education records to be included as part of a student's commitment record and procedures for securing the student's records. The education records shall include, but not be limited to, the following:

1. A copy of the student's individual educational plan.

2. A copy of the student's individualized progress monitoring plan.

3. A copy of the student's individualized transition plan.

4. Data on student performance on assessments taken according to s. 1008.22.

5. A copy of the student's permanent cumulative record.

6. A copy of the student's academic transcript.

7. A portfolio reflecting the student's academic accomplishments and industry certification earned, when age appropriate, while in the Department of Juvenile Justice program.

(d) Establish the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a juvenile justice education program.

(4) Each district school board shall:

(a) Notify students in juvenile justice education programs who attain the age of 16 years of the law regarding compulsory school attendance and make available the option of enrolling in an education program to attain a Florida high school diploma by taking the high school equivalency examination before release from the program. The Department of Education shall assist juvenile justice education programs with becoming high school equivalency examination centers.

(b) Respond to requests for student education records received from another district school board or a juvenile justice education program within 5 working days after receiving the request.

(c) Provide access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. School districts and providers may enter into cooperative agreements for the provision of curriculum associated with courses offered pursuant to s. 1003.498 to enable providers to offer such courses.

(d) Complete the assessment process required by subsection (2).

(e) Monitor compliance with contracts for education programs for students in juvenile justice prevention, day treatment, residential, and detention programs.

(5) The Department of Education shall establish and operate, either directly or indirectly through a contract, a mechanism to provide ac-

countability measures that annually assesses and evaluates all juvenile justice education programs using student performance data and program performance ratings by type of program and shall provide technical assistance and related research to district school boards and juvenile justice education providers. The Department of Education, with input from the Department of Juvenile Justice, school districts, and education providers, shall develop annual recommendations for system and school improvement.

History.—s. 145, ch. 2002-387; s. 3, ch. 2004-333; s. 85, ch. 2004-357; s. 28, ch. 2006-74; s. 172, ch. 2007-5; s. 7, ch. 2007-234; s. 37, ch. 2011-5; s. 29, ch. 2013-27; s. 368, ch. 2014-19; s. 17, ch. 2014-20; s. 31, ch. 2014-184.

### **1003.52 Educational services in Department of Juvenile Justice programs.—**

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, regional workforce boards, and local youth councils, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic, career and professional education (CAPE), and transition performance of students in juvenile justice programs and reporting on the results.

(c) Developing academic and CAPE protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.

(d) Implementing a joint accountability, program performance, and program improvement process.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency's role regarding educational program accountability, technical assistance, training, and coordination of services.

(2) Students participating in Department of Juvenile Justice education programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive

education programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the juvenile justice education prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.

(a) The district school board shall make provisions for each student to participate in basic, CAPE, and exceptional student programs as appropriate. Students served in Department of Juvenile Justice education programs shall have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. Students participating in high school equivalency examination preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the high school equivalency examination exit option for all juvenile justice education programs.

(b) The Department of Education, with the assistance of the school districts and juvenile justice education providers, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The Department of Education and the Department of Juvenile Justice shall jointly review the effectiveness of this assessment and implement changes as necessary.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, prevention, day treatment, and residential programs shall be made available by the local school district during the juvenile justice



school year, as provided in s. 1003.01(11). In addition, students in juvenile justice education programs shall have access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. The Department of Education and the school districts shall adopt policies necessary to provide such access.

(5) The educational program shall provide instruction based on each student's individualized transition plan, assessed educational needs, and the education programs available in the school district in which the student will return. Depending on the student's needs, educational programming may consist of remedial courses, academic courses required for grade advancement, CAPE courses, high school equivalency examination preparation, or exceptional student education curricula and related services which support the transition goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications. If the duration of a program is less than 40 days, the educational component may be limited to tutorial remediation activities, career employability skills instruction, education counseling, and transition services that prepare students for a return to school, the community, and their home settings based on the students' needs.

(6) Participation in the program by students of compulsory school-attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the high school equivalency examination and attain a Florida high school diploma before release from a juvenile justice education program. A student who has received a high school diploma or its equivalent and is not employed shall participate in workforce development or other CAPE education or Florida College System institution or university courses while in the program, subject to available funding.

(7) An individualized progress monitoring plan shall be developed for all students not classified as exceptional education students upon entry in a juvenile justice education program and upon reentry

in the school district. These plans shall address academic, literacy, and career and technical skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice education program as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student's academic record in the discharge packet when the student exits the program.

(9) Each district school board shall make provisions for high school level students to earn credits toward high school graduation while in residential and nonresidential juvenile justice education programs. Provisions must be made for the transfer of credits and partial credits earned.

(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student's stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student's family, and Department of Juvenile Justice personnel for committed students.

(a) Transition planning must begin upon a student's placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student's assessed educational needs and postrelease education plans.

2. Services to be provided during the program stay and services to be implemented upon release, including, but not limited to, continuing education in secondary school, CAPE programs, postsecondary education, or employment, based on the student's needs.

3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as members of the local Department of Juvenile Justice reentry teams. The school district, upon return of a student from a juvenile justice education program, must consider the individual needs and circumstances of the

student and the transition plan recommendations when reenrolling a student in a public school. A local school district may not maintain a standardized policy for all students returning from a juvenile justice program but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

(11) The district school board shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of education programs and opportunities including textbooks, technology, instructional support, and resources commensurate with resources provided to students in public schools, including textbooks and access to technology. If the district school board operates a juvenile justice education program at a juvenile justice facility, the district school board, in consultation with the director of the juvenile justice facility, shall select the instructional personnel assigned to that program. The Secretary of Juvenile Justice or the director of a juvenile justice program may request that the performance of a teacher assigned by the district to a juvenile justice education program be reviewed by the district and that the teacher be reassigned based upon an evaluation conducted pursuant to s. 1012.34 or for inappropriate behavior. Juvenile justice education programs shall have access to the substitute teacher pool used by the district school board.

(12) District school boards may contract with a private provider for the provision of education programs to students placed with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The district school board's planning and budgeting process shall include the needs of Department of Juvenile Justice education programs in the district school board's plan for expenditures for state categorical and federal funds.

(13)(a) Funding for eligible students enrolled in juvenile justice education programs shall be provided through the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act. Funding shall include, at a minimum:

1. Weighted program funding or the basic amount for current operation multiplied by the district cost differential as provided in s. 1011.62(2);

2. The supplemental allocation for juvenile justice education as provided in s. 1011.62(10);

3. A proportionate share of the district's exceptional student education guaranteed allocation, the supplemental academic instruction allocation, and the instructional materials allocation;

4. An amount equivalent to the proportionate share of the state average potential discretionary local effort for operations, which shall be determined as follows:

a. If the district levies the maximum discretionary local effort and the district's discretionary local effort per FTE is less than the state average potential discretionary local effort per FTE, the proportionate share shall include both the discretionary local effort and the compression supplement per FTE. If the district's discretionary local effort per FTE is greater than the state average per FTE, the proportionate share shall be equal to the state average; or

b. If the district does not levy the maximum discretionary local effort and the district's actual discretionary local effort per FTE is less than the state average potential discretionary local effort per FTE, the proportionate share shall be equal to the district's actual discretionary local effort per FTE. If the district's actual discretionary local effort per FTE is greater than the state average per FTE, the proportionate share shall be equal to the state average potential local effort per FTE; and

5. A proportionate share of the district's proportion to funds available, if necessary.

(b) Juvenile justice education programs to receive the appropriate FEFP funding for Department of Juvenile Justice education programs shall include those operated through a contract with the Department of Juvenile Justice.

(c) Consistent with the rules of the State Board of Education, district school boards shall request an alternative FTE survey for Department of Juvenile Justice education programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice education programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

(14) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to students under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with students referred to juvenile justice education programs.

(i) Transition plans for students moving into and out of juvenile justice education programs.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the accountability and evaluation system and student performance measures.

(15) Nothing in this section or in a cooperative agreement requires the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(16) The Department of Education, in consultation with the Department of Juvenile Justice, district school boards, and providers, shall adopt rules establishing:

(a) Objective and measurable student performance measures to evaluate a student's educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice education programs, taking into consideration the student's length of stay in the program. Performance measures shall include outcomes that relate to student achievement of career education goals, acquisition of employability skills, receipt of a high school diploma or its equivalent, grade advancement, and the number of CAPE industry certifications earned.

(b) A performance rating system to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The performance rating

shall be primarily based on data regarding student performance as described in paragraph (a).

(c) The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.

(d) The Department of Education, in partnership with the Department of Juvenile Justice, shall develop a comprehensive accountability and program improvement process. The accountability and program improvement process shall be based on student performance measures by type of program and shall rate education program performance. The accountability system shall identify and recognize high-performing education programs. The Department of Education, in partnership with the Department of Juvenile Justice, shall identify low-performing programs. Low-performing education programs shall receive an onsite program evaluation from the Department of Juvenile Justice. School improvement, technical assistance, or the reassignment of the program shall be based, in part, on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or reassign the program.

(17) The department, in collaboration with the Department of Juvenile Justice, shall collect data and report on commitment, day treatment, prevention, and detention programs. The report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1 of each year. The report must include, at a minimum:

(a) The number and percentage of students who:

1. Return to an alternative school, middle school, or high school upon release and the attendance rate of such students before and after participation in juvenile justice education programs.

2. Receive a standard high school diploma or a high school equivalency diploma.

3. Receive industry certification.

4. Enroll in a postsecondary educational institution.

5. Complete a juvenile justice education program without reoffending.

6. Reoffend within 1 year after completion of a day treatment or residential commitment program.

7. Remain employed 1 year after completion of a day treatment or residential commitment program.

8. Demonstrate learning gains pursuant to paragraph (3)(b).

(b) The following cost data for each juvenile justice education program:

1. The amount of funding provided by district school boards to juvenile justice programs and the amount retained for administration, including documenting the purposes of such expenses.

2. The status of the development of cooperative agreements.

3. Recommendations for system improvement.

4. Information on the identification of, and services provided to, exceptional students, to determine whether these students are properly reported for funding and are appropriately served.

(18) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

(19) When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the district school board and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by State Board

of Education rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(20) The parent of an exceptional student shall have the due process rights provided for in this chapter.

(21) The education programs at the Florida School for Boys in Okeechobee shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited education agencies approved by the Department of Education.

(22) The State Board of Education shall adopt rules necessary to implement this section. Such rules must require the minimum amount of paperwork and reporting.

(23) The Department of Juvenile Justice and the Department of Education, in consultation with Workforce Florida, Inc., the statewide Workforce Development Youth Council, district school boards, Florida College System institutions, providers, and others, shall jointly develop a multiagency plan for CAPE which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.

History.—s. 146, ch. 2002-387; s. 166, ch. 2004-5; s. 40, ch. 2004-41; s. 4, ch. 2004-333; s. 86, ch. 2004-357; s. 29, ch. 2006-74; s. 127, ch. 2006-120; s. 15, ch. 2010-154; s. 38, ch. 2011-5; s. 14, ch. 2011-37; s. 12, ch. 2012-133; s. 119, ch. 2013-15; s. 181, ch. 2014-17; s. 18, ch. 2014-20; s. 32, ch. 2014-184.

### **1003.53 Dropout prevention and academic intervention.—**

(1)(a) Dropout prevention and academic intervention programs may differ from traditional educational programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and shall employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. The educational program shall provide curricula, character development and law education, and related services that support the program goals and lead to improved performance in the areas of academic achievement, attendance, and discipline. Student participation in such programs shall be voluntary. District school boards may, however, assign students to a program for disruptive students. Notwithstanding any other provision of law to the contrary, no student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based solely on the student being from a single-parent family.

(b) Students in grades 1-12 shall be eligible for dropout prevention and academic intervention programs. Eligible students shall be reported in the appropriate basic cost factor in the Florida

Education Finance Program. The strategies and supports provided to eligible students shall be funded through the General Appropriations Act and may include, but are not limited to, those services identified on the student's academic intervention plan.

(c) A student shall be identified as being eligible to receive services funded through the dropout prevention and academic intervention program based upon one of the following criteria:

1. The student is academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or district proficiency levels in reading, mathematics, or writing.

2. The student has a pattern of excessive absenteeism or has been identified as a habitual truant.

3. The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent

conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or

b. Severely threatens the general welfare of students or others with whom the student comes into contact.

4. The student is identified by a school's early warning system pursuant to s. 1001.42(18)(b).

(d)1. "Second chance schools" means district school board programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for waivers by the Commissioner of Education from State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings.

2. District school boards seeking to enter into a partnership with a private entity or public entity to operate a second chance school for disruptive students may apply to the Department of Education for startup grants. These grants must be available for 1 year and must be used to offset the startup costs for implementing such programs off public school campuses. General operating funds must be generated through the appropriate programs of the Florida Education Finance Program. Grants approved under this program shall be for the full operation of the school by a private nonprofit or for-profit provider or the public entity. This program must operate under rules adopted by the State Board of Education and be implemented to the extent funded by the Legislature.

3. A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 1003.01.

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

4. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12, determines that such placement could be beneficial to the student and the criteria included in subparagraph 3. are met.

5. A student may be assigned to a second chance school if the district school board in which

the student resides has a second chance school and if the student meets one of the following criteria:

a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the district school board.

b. The student interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district school board's code of student conduct. For the purposes of this program, "serious offense" is behavior which:

(I) Threatens the general welfare of students or others with whom the student comes into contact;

(II) Includes violence;

(III) Includes possession of weapons or drugs;

or

(IV) Is harassment or verbal abuse of school personnel or other students.

6. Prior to assignment of students to second chance schools, district school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

7. Students assigned to second chance schools must be evaluated by the district school board's child study team before placement in a second chance school. The study team shall ensure that students are not eligible for placement in a program for emotionally disturbed children.

8. Students who exhibit academic and social progress and who wish to return to a traditional school shall complete a character development and law education program and demonstrate preparedness to reenter the regular school setting prior to reentering a traditional school.

(2)(a) Each district school board may establish dropout prevention and academic intervention programs at the elementary, middle, junior high school, or high school level. Programs designed to eliminate patterns of excessive absenteeism or habitual truancy shall emphasize academic performance and may provide specific instruction in the areas of career education, preemployment training, and behavioral management. Such programs shall utilize instructional teaching methods appropriate to the specific needs of the student.

(b) Each school that establishes a dropout prevention and academic intervention program at that school site shall reflect that program in the school improvement plan as required under s. 1001.42(18).



(3) Each district school board receiving state funding for dropout prevention and academic intervention programs through the General Appropriations Act shall submit information through an annual report to the Department of Education's database documenting the extent to which each of the district's dropout prevention and academic intervention programs has been successful in the areas of graduation rate, dropout rate, attendance rate, and retention/promotion rate. The department shall compile this information into an annual report which shall be submitted to the presiding officers of the Legislature by February 15.

(4) Each district school board shall establish procedures for ensuring that teachers assigned to dropout prevention and academic intervention programs possess the affective, pedagogical, and content-related skills necessary to meet the needs of these students.

(5) Each district school board providing a dropout prevention and academic intervention program pursuant to this section shall maintain for each participating student records documenting the student's eligibility, the length of participation, the type of program to which the student was assigned or the type of academic intervention services provided, and an evaluation of the student's academic and behavioral performance while in the program. The school principal or his or her designee shall, prior to placement in a dropout prevention and academic intervention program or the provision of an academic service, provide written notice of placement or services by certified mail, return receipt requested, to the student's parent. The parent of the student shall sign an acknowledgment of the notice of placement or service and return

the signed acknowledgment to the principal within 3 days after receipt of the notice. The parents of a student assigned to such a dropout prevention and academic intervention program shall be notified in writing and entitled to an administrative review of any action by school personnel relating to such placement pursuant to the provisions of chapter 120.

(6) District school board dropout prevention and academic intervention programs shall be coordinated with social service, law enforcement, prosecutorial, and juvenile justice agencies and juvenile assessment centers in the school district. Notwithstanding the provisions of s. 1002.22, these agencies are authorized to exchange information contained in student records and juvenile justice records. Such information is confidential and exempt from the provisions of s. 119.07(1). District school boards and other agencies receiving such information shall use the information only for official purposes connected with the certification of students for admission to and for the administration of the dropout prevention and academic intervention program, and shall maintain the confidentiality of such information unless otherwise provided by law or rule.

(7) The State Board of Education shall have the authority pursuant to ss. 120.536(1) and 120.54 to adopt rules necessary to implement the provisions of this section; such rules shall require the minimum amount of necessary paperwork and reporting.

History.—s. 147, ch. 2002-387; s. 18, ch. 2008-108; s. 8, ch. 2014-184.

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### **1003.54 Teenage parent programs.—**

(1) Each district school board shall maintain a teenage parent program.

(2) "Teenage parent programs" means educational programs designed to provide a specialized curriculum to meet the needs of students who are pregnant or students who are mothers or fathers and the children of the students.

(3)(a) The program shall provide pregnant students or students who are parents and the children of these students with a comprehensive teenage parent program. The program shall provide pregnant students or students who are parents with the option of participating in regular classroom activities or enrolling in a special program designed to meet their needs pursuant to s. 1003.21. Students participating in teenage parent programs shall be exempt from minimum attendance requirements for absences related to pregnancy or parenting, but shall be required to make up work missed due to absence.

(b) The curriculum shall include instruction in such topics as prenatal and postnatal health care,

parenting skills, benefits of sexual abstinence, and consequences of subsequent pregnancies. Parenting skills should include instruction in the stages of child growth and development, methods for aiding in the intellectual, language, physical, and social development of children, and guidance on constructive play activities.

(c) Provision for necessary child care, health care, social services, parent education, and transportation shall be ancillary service components of teenage parent programs. Ancillary services may be provided through the coordination of existing programs and services and through joint agreements between district school boards and local school readiness coalitions or other appropriate public and private providers.

(d) The district school board shall make adequate provisions for pregnant and parenting teenagers to complete the coursework necessary to earn a high school diploma.

(e) Children enrolled in child care provided by the district shall be funded at the special program cost factor pursuant to s. 1011.62 if the parent or

parents are enrolled full time in a public school in the district.

(4) Districts may modify courses listed in the State Course Code Directory for the purpose of providing teenage parent programs pursuant to the provisions of this section. Such modifications must be approved by the commissioner and may include lengthening or shortening of the school time allotted for in-class study, alternate methods of assess-

ment of student performance, and the integration of curriculum frameworks or student performance standards to produce interdisciplinary units of instruction.

(5) The State Board of Education shall adopt rules necessary to implement the provisions of this section.

History.—s. 148, ch. 2002-387; s. 14, ch. 2004-484.

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**1003.55 Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students.—**

(1) The Department of Education may establish a coordinating unit and instructional materials center for visually impaired students and deaf or hard-of-hearing students to provide staff and resources for the coordination, cataloging, standardizing, producing, procuring, storing, and distributing of braille, large print, tangible apparatus, captioned films and video tapes, and other specialized educational materials needed by these students and other exceptional students. The coordinating unit shall have as its major purpose the improvement of instructional programs for visually impaired students and deaf or hard-of-hearing students and may, as a second priority, extend appropriate services to other exceptional students, consistent with provisions and criteria established, to the extent that resources are available.

(2) The unit shall be operated under rules adopted by the State Board of Education.

(3) As used in this section, the term:

(a) “Blind student” means a student who is eligible for special education services and who:

1. Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than 20 degrees; or

2. Has a medically indicated expectation of visual deterioration.

(b) “Braille” means the system of reading and writing through touch commonly known as standard English braille.

(c) “Individualized education program” means a written statement developed for a student eligible for special education services pursuant to s. 602(a)(20), Part A of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1401(a).

(4) In developing an individualized written education program for each blind student, the presumption shall be that blind students can communicate effectively and efficiently with the same level of proficiency expected of the students’ peers

of comparable ability and grade level. Accordingly, proficiency in reading and writing braille shall be considered during the individualized planning and assessment processes in this context.

(5) Any publisher of a textbook adopted pursuant to the state instructional materials adoption process shall furnish the Department of Education with a computer file in an electronic format specified by the department at least 2 years in advance that is readily translatable to braille and can be used for large print or speech access. Any textbook reproduced pursuant to the provisions of this subsection shall be purchased at a price equal to the price paid for the textbook as adopted. The Department of Education shall not reproduce textbooks obtained pursuant to this subsection in any manner that would generate revenues for the department from the use of such computer files or that would preclude the rightful payment of fees to the publisher for use of all or some portion of the textbook.

(6)(a) In developing an individual education plan for a deaf or hard-of-hearing student, the individual education plan team must consider the student’s language and communication needs, opportunities for direct communication with peers and professional personnel in the student’s language and communication mode, and the student’s academic level and full range of needs, including opportunities for direct instruction in the student’s language and communication mode.

(b) The Department of Education, in coordination with the Florida School for the Deaf and the Blind and with input from education stakeholders, including representatives of the auditory oral community, shall develop a model communication plan which shall be used during the development of a student’s individual education plan. The model shall be adopted in rule by the State Board of Education and made available online to all school districts no later than December 31, 2013. The department shall provide technical assistance for using the model communication plan.

History.—s. 149, ch. 2002-387; s. 1, ch. 2013-84.

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**1003.56 English language instruction for limited English proficient students.—**

(1) Instruction in the English language shall be provided to limited English proficient students. Such instruction shall be designed to develop the

student’s mastery of the four language skills, including listening, speaking, reading, and writing, as rapidly as possible.

(2)(a) “Limited English proficient” or “limited English proficiency,” when used with reference to

an individual, means:

- 1.a. An individual who was not born in the United States and whose native language is a language other than English;
  - b. An individual who comes from a home environment where a language other than English is spoken in the home; or
  - c. 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
2. Who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English.
- (b) "Home language" or "native language," when used with reference to an individual of limited English proficiency, means the language normally used by such individual or, in the case of a student, the language normally used by the parents of the student.
- (c) "ESOL" means English for Speakers of Other Languages and:
1. When modifying instruction, the strategy used to teach limited English proficient students; or
  2. When modifying program, the program funded in the Florida Education Finance Program, listed under English for Speakers of Other Languages in s. 1011.62.

es in s. 1011.62.

- (3) Each district school board shall implement the following procedures:
- (a) Develop and submit a plan for providing English language instruction for limited English proficient students to the Department of Education for review and approval.
  - (b) Identify limited English proficient students through assessment.
  - (c) Provide for student exit from and reclassification into the program.
  - (d) Provide limited English proficient students ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of reading, mathematics, science, social studies, and computer literacy.
  - (e) Maintain a student plan.
  - (f) Provide qualified teachers.
  - (g) Provide equal access to other programs for eligible limited English proficient students based on need.
  - (h) Provide for parental involvement in the program.
- (4) Each district school board's program for limited English proficient students shall be evaluated and monitored periodically.
- (5) The State Board of Education shall adopt rules for the purpose of implementing this section.

History.—s. 150, ch. 2002-387.

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### **1003.57 Exceptional students instruction.—**

- (1)(a) For purposes of providing exceptional student instruction under this section:
1. A school district shall use the following terms to describe the instructional setting for a student with a disability, 6 through 21 years of age, who is not educated in a setting accessible to all children who are together at all times:
    - a. "Exceptional student education center" or "special day school" means a separate public school to which nondisabled peers do not have access.
    - b. "Other separate environment" means a separate private school, residential facility, or hospital or homebound program.
    - c. "Regular class" means a class in which a student spends 80 percent or more of the school week with nondisabled peers.
    - d. "Resource room" means a classroom in which a student spends between 40 percent to 80 percent of the school week with nondisabled peers.
    - e. "Separate class" means a class in which a student spends less than 40 percent of the school week with nondisabled peers.
  2. A school district shall use the term "inclusion" to mean that a student is receiving education in a general education regular class setting, reflecting natural proportions and age-appropriate

heterogeneous groups in core academic and elective or special areas within the school community; a student with a disability is a valued member of the classroom and school community; the teachers and administrators support universal education and have knowledge and support available to enable them to effectively teach all children; and a teacher is provided access to technical assistance in best practices, instructional methods, and supports tailored to the student's needs based on current research.

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

1. The district school board provide the necessary professional services for diagnosis and evaluation of exceptional students.
2. The district school board provide the special instruction, classes, and services, either within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet standards established by the commissioner.
3. The district school board annually provide information describing the Florida School for the Deaf and the Blind and all other programs and

methods of instruction available to the parent of a sensory-impaired student.

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

(c) A student may not be given special instruction or services as an exceptional student until after he or she has been properly evaluated and found eligible as an exceptional student in the manner prescribed by rules of the State Board of Education. The parent of an exceptional student evaluated and found eligible or ineligible shall be notified of each such evaluation and determination. Such notice shall contain a statement informing the parent that he or she is entitled to a due process hearing on the identification, evaluation, and eligibility determination, or lack thereof. Such hearings are exempt from ss. 120.569, 120.57, and 286.011, except to the extent that the State Board of Education adopts rules establishing other procedures. Any records created as a result of such hearings are confidential and exempt from s. 119.07(1). 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. The decision of the administrative law judge is final, except that any party aggrieved by the finding and decision rendered by the administrative law judge 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, in 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 has the right to request a review of the administrative law judge's order by the district court of appeal as provided in s. 120.68.

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

(e) In providing for the education of exceptional students, the district school superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students to the maximum extent appropriate. To the extent appropriate, students with disabilities, including those students in public or private institutions or other facilities, shall be educated with students who are not disabled. Segregation of exceptional students shall occur

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.

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

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

(h) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a student who has a disability and violates a district school board's code of student conduct. School personnel may remove and place such student in an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of the school district;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the school district; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school district.

(i) For purposes of paragraph (h), the term:

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

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

(j) The district school board shall provide each parent with information regarding the amount

that the school district receives from the state appropriation for each of the five exceptional student education support levels for a full-time student. The school district shall provide this information at the initial meeting of a student's individual education plan team.

(2)(a) An exceptional student with a disability who resides in a residential facility and receives special instruction or services is considered a resident of the state in which the student's parent is a resident. The cost of such instruction, facilities, and services for a nonresident student with a disability shall be provided by the placing authority in the student's state of residence, such as a public school entity, other placing authority, or parent. A nonresident student with a disability may not be reported by any school district for FTE funding in the Florida Education Finance Program.

(b) The Department of Education shall provide to each school district a statement of the specific limitations of the district's financial obligation for exceptional students with disabilities under federal and state law. The department shall also provide to each school district technical assistance as necessary for developing a local plan to impose on a student's home state the fiscal responsibility for educating a nonresident exceptional student with a disability.

(c) The Department of Education shall develop a process by which a school district must, before providing services to an exceptional student with a disability who resides in a residential facility in this state, review the residency of the student. The residential facility, not the district, is responsible for billing and collecting from a nonresidential student's home state payment for the student's educational and related services.

(d) The Department of Education shall formulate an interagency agreement or other mechanism for billing and collecting from a nonresidential student's home state payment for the student's educational and related services.

(e) This subsection applies to any nonresident student with a disability who resides in a residential facility and who receives instruction as an exceptional student with a disability in any type of residential facility in this state, including, but not limited to, a public school, a private school, a group home facility as defined in s. 393.063, an intensive residential treatment program for children and adolescents as defined in s. 395.002, a facility as defined in s. 394.455, an intermediate care facility for the developmentally disabled or ICF/DD as defined in s. 393.063 or s. 400.960, or a community residential home as defined in s. 419.001.

(3)(a) For purposes of this subsection and subsection (4), the term:

1. "Agency" means the Department of Children and Families or its contracted lead agency, the Agency for Persons with Disabilities, and the

Agency for Health Care Administration.

2. "Exceptional student" means an exceptional student, as defined in s. 1003.01, who has a disability.

3. "Receiving school district" means the district in which a private residential care facility is located.

4. "Placement" means the funding or arrangement of funding by an agency for all or a part of the cost for an exceptional student to reside in a private residential care facility and the placement crosses school district lines.

(b) Within 10 business days after an exceptional student is placed in a private residential care facility by an agency, the agency or private residential care facility licensed by the agency, as appropriate, shall provide written notification of the placement to the school district where the student is currently counted for funding purposes under s. 1011.62 and the receiving school district. The exceptional student shall be enrolled in school and receive a free and appropriate public education, special education, and related services while the notice and procedures regarding payment are pending. This paragraph applies when the placement is for the primary purpose of addressing residential or other noneducational needs and the placement crosses school district lines.

(c) Within 10 business days after receiving the notification, the receiving school district must review the student's individual educational plan (IEP) to determine if the student's IEP can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district shall:

1. Provide educational instruction to the student;
2. Contract with another provider or facility to provide the educational instruction;
3. Contract with the private residential care facility in which the student resides to provide the educational instruction; or
4. Decline to provide or contract for educational instruction.

If the receiving school district declines to provide or contract for the educational instruction, the school district in which the legal residence of the student is located shall provide or contract for the educational instruction to the student. The school district that provides educational instruction or contracts to provide educational instruction shall report the student for funding purposes pursuant to s. 1011.62.

(d)1. The Department of Education, in consultation with the agencies and school districts, shall develop procedures for written notification to school districts regarding the placement of an exceptional student in a residential care facility. The procedures must:



- a. Provide for written notification of a placement that crosses school district lines; and
- b. Identify the entity responsible for the notification for each facility that is operated, licensed, or regulated by an agency.

2. The State Board of Education shall adopt the procedures by rule pursuant to ss. 120.536(1) and 120.54, and the agencies shall implement the procedures.

The requirements of paragraphs (c) and (d) do not apply to written agreements among school districts which specify each school district's responsibility for providing and paying for educational services to an exceptional student in a residential care facility. However, each agreement must require a school district to review the student's IEP within 10 business days after receiving the notification required under paragraph (b).

(4) The Department of Education and agencies shall enter into an agreement for interagency coordination regarding the placement of exceptional students in residential facilities, consistent with federal law and regulations, on or before January

1, 2010. The agreement shall identify the responsibilities of each party and ensure that students receive special education and related services necessary to receive a free appropriate public education. The agreement shall also establish procedures for:

- (a) Resolving interagency disputes;
- (b) Ensuring the provision of services during the pendency of a dispute; and
- (c) Ensuring continued Medicaid eligibility as deemed appropriate.

(5) Each full-time virtual instruction program under s. 1002.37 or s. 1002.45 must fulfill the obligations of a school district under this section for public school exceptional students who are enrolled in a full-time virtual instruction program. A student whose individual educational plan indicates that full-time virtual instruction is appropriate may be enrolled in a full-time virtual instruction program.

History.—s. 151, ch. 2002-387; s. 30, ch. 2006-74; s. 7, ch. 2009-35; s. 1, ch. 2009-238; s. 127, ch. 2010-5; s. 8, ch. 2012-192; s. 3, ch. 2013-236; s. 369, ch. 2014-19; s. 47, ch. 2014-39.

### **1003.571 Instruction for exceptional students who have a disability.—**

(1) The State Board of Education shall comply with the Individuals with Disabilities Education Act (IDEA), as amended, and its implementing regulations after evaluating and determining that the IDEA, as amended, and its implementing regulations are consistent with the following principles:

- (a) Ensuring that all children who have disabilities are afforded a free and appropriate public education that emphasizes special education and related services designed to meet their unique

needs and prepare them for further education, employment, and independent living;

- (b) Ensuring that the rights of children who have disabilities and their parents are protected; and

(c) Assessing and ensuring the effectiveness of efforts to educate children who have disabilities.

(2) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

History.—s. 2, ch. 2009-238.

### **1003.5715 Parental consent; individual education plan.—**

(1) The Department of Education shall adopt separate parental consent forms that school districts must use for each of the following actions in a student's individual education plan (IEP):

- (a) Administer to the student an alternate assessment pursuant to s. 1008.22 and provide instruction in the state standards access points curriculum.
- (b) Place the student in an exceptional student education center.
- (2) In accordance with 34 C.F.R. s. 300.503, each form shall be provided to the parent in the parent's native language, as defined in 34 C.F.R. s. 300.29, and include the following:
  - (a) A statement that the parent is a participant of the individual education plan team (IEP Team) and has the right to consent or refuse consent to the actions described in subsection (1). The statement shall include information that the refusal of parental consent means that the school district may not proceed with the actions described

in subsection (1) without a school district due process hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508.

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

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

(3) A school district may not proceed with the actions described in subsection (1) without parental consent unless the school district documents reasonable efforts to obtain the parent's consent and the child's parent has failed to respond or the school district obtains approval through a due process hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and resolution of appeals.

(4) Except for a change in placement described in s. 1003.57(1)(h), if a school district determines that there is a need to change an exceptional student's IEP as it relates to actions described in subsection (1), the school must hold an IEP Team meeting that includes the parent to

discuss the reason for the change. The school shall provide written notice of the meeting to the parent at least 10 days before the meeting, indicating the purpose, time, and location of the meeting and who, by title or position, will attend the meeting. The IEP Team meeting requirement may be waived by informed consent of the parent after the parent receives the written notice.

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

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

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

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

History.—s. 4, ch. 2013-236.

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**1003.5716 Transition to postsecondary education and career opportunities.**—All students with disabilities who are 3 years of age to 21 years of age have the right to a free, appropriate public education. As used in this section, the term “IEP” means individual education plan.

(1) To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an IEP team shall begin the process of, and develop an IEP for, identifying the need for transition services before the student with a disability attains the age of 14 years in order for his or her postsecondary goals and career goals to be identified and in place when he or she attains the age of 16 years. This process must include, but is not limited to:

(a) Consideration of the student's need for instruction in the area of self-determination and self-advocacy to assist the student's active and effective participation in an IEP meeting; and

(b) Preparation for the student to graduate from high school with a standard high school diploma pursuant to s. 1003.4282 with a Scholar designation unless the parent chooses a Merit designation.

(2) Beginning not later than the first IEP to be in effect when the student attains the age of 16, or younger if determined appropriate by the parent and the IEP team, the IEP must include the following statements that must be updated annually:

(a) A statement of intent to pursue a standard high school diploma and a Scholar or Merit designation, pursuant to s. 1003.4285, as determined by the parent.

(b) A statement of intent to receive a standard high school diploma before the student attains

the age of 22 and a description of how the student will fully meet the requirements in s. 1003.428 or s. 1003.4282, as applicable, including, but not limited to, a portfolio pursuant to s. 1003.4282(11) (b) which meets the criteria specified in State Board of Education rule. The IEP must also specify the outcomes and additional benefits expected by the parent and the IEP team at the time of the student's graduation.

(c) A statement of appropriate measurable long-term postsecondary education and career goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills and the transition services, including courses of study needed to assist the student in reaching those goals.

(3) Any change in the IEP for the goals specified in subsection (2) must be approved by the parent and is subject to verification for appropriateness by an independent reviewer selected by the parent as provided in s. 1003.572.

(4) If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student that are specified in the IEP. However, this does not relieve any participating agency of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

History.—s. 20, ch. 2014-184.

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**1003.572 Collaboration of public and private instructional personnel.**—

(1) As used in this section, the term “private instructional personnel” means:

(a) Individuals certified under s. 393.17 or

licensed under chapter 490 or chapter 491 for applied behavior analysis services as defined in ss. 627.6686 and 641.31098.

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

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

(d) Physical therapists licensed under chapter 486.

(e) Psychologists licensed under chapter 490.

(f) Clinical social workers licensed under chapter 491.

(2) The collaboration of public and private instructional personnel shall be designed to enhance but not supplant the school district's responsibilities under the Individuals with Disabilities Education Act (IDEA). The school as the local education agency shall provide therapy services to meet the expectations provided in federal law and regulations and state statutes and rules. Collaboration of public and private instructional personnel will work to promote educational progress and assist students in acquiring essential skills, including, but not limited to, readiness for pursuit of higher education goals or employment. Where applicable, public and private instructional personnel shall undertake collaborative programming. Coordination of services and plans between a public school and private instructional personnel is encouraged to

avoid duplication or conflicting services or plans.

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

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

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

For the purpose of implementing this subsection, a school district may not impose any requirements beyond those requirements specified in this subsection or charge any fees.

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

History.—s. 5, ch. 2013-236; s. 21, ch. 2014-184.

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### **1003.573 Use of restraint and seclusion on students with disabilities.—**

#### **(1) DOCUMENTATION AND REPORTING.—**

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.
5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:
  - a. The context in which the restraint or seclusion occurred.
  - b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

d. What occurred with the student immediately after the termination of the restraint or seclusion.

e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.

f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

#### **(2) MONITORING.—**

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) Documentation prepared as required in

subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

(d) The department shall establish standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion. These standards shall be provided to school districts by October 1, 2011.

**(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—**

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.
4. Training programs relating to manual or physical restraint and seclusion.
5. The district's plan for selecting personnel to be trained.
6. The district's plan for reducing the use of

restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

- a. Additional training in positive behavioral support and crisis management;
- b. Parental involvement;
- c. Data review;
- d. Updates of students' functional behavioral analysis and positive behavior intervention plans;
- e. Additional student evaluations;
- f. Debriefing with staff;
- g. Use of schoolwide positive behavior support; and
- h. Changes to the school environment.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

(4) **PROHIBITED RESTRAINT.**—School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing.

(5) **SECLUSION.**—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.

History.—s. 4, ch. 2010-224; s. 23, ch. 2011-175.

**1003.575 Assistive technology devices; findings; interagency agreements.**—Accessibility, utilization, and coordination of appropriate assistive technology devices and services are essential as a young person with disabilities moves from early intervention to preschool, from preschool to school, from one school to another, and from school to employment or independent living. If an individual education plan team makes a recommendation in accordance with State Board of Education rule for a student with a disability, as defined in s. 1003.01(3), to receive an assistive technology assessment, that assessment must be completed within 60 school days after the team's recommendation. To ensure that an assistive technology device issued to a young person as part of his or her individualized family support plan, individual support plan, or an individual education plan remains with the individual through such transitions, the following agencies shall enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices:

(1) The Florida Infants and Toddlers Early Intervention Program in the Division of Children's

Medical Services of the Department of Health.

(2) The Division of Blind Services, the Bureau of Exceptional Education and Student Services, and the Division of Vocational Rehabilitation of the Department of Education.

(3) The Voluntary Prekindergarten Education Program administered by the Department of Education and the Office of Early Learning.

Interagency agreements entered into pursuant to this section shall provide a framework for ensuring that young persons with disabilities and their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services that may assist in meeting transition needs, and shall establish a mechanism by which a young person or his or her parent may request that an assistive technology device remain with the young person as he or she moves through the continuum from home to school to postschool.

History.—s. 1, ch. 2005-188; s. 463, ch. 2011-142; s. 24, ch. 2011-175.

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**1003.576 Individual education plans for exceptional students.**--The Department of Education must develop and have an operating electronic IEP system in place for potential statewide use no later than July 1, 2007. The statewide system shall be developed collaboratively with school districts and

must include input from school districts currently developing or operating electronic IEP systems.

History.--s. 31, ch. 2006-74.

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**1003.58 Students in residential care facilities.**— Each district school board shall provide educational programs according to rules of the State Board of Education to students who reside in residential care facilities operated by the Department of Children and Families or the Agency for Persons with Disabilities.

(1) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Children and Families or the Agency for Persons with Disabilities, as appropriate.

(2) If additional facilities are required, the district school board and the Department of Children and Families or the Agency for Persons with Disabilities, as appropriate, shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the department or agency in accordance with chapter 216. Any instructional facility to be built on state property shall have educational specifications jointly developed by the school district and the department or agency and approved by the

Department of Education. The size of space and occupant design capacity criteria as provided by state board rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property. The planning of such additional facilities shall incorporate current state deinstitutionalization goals and plans.

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

(4) The district school board shall have a written agreement with the Department of Children and Families and the Agency for Persons with Disabilities outlining the respective duties and responsibilities of each party.

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

History.--s. 152, ch. 2002-387; s. 32, ch. 2006-74; s. 68, ch. 2006-227; s. 3, ch. 2009-238; s. 6, ch. 2013-236; s. 370, ch. 2014-19.



# Florida Statutes Pertaining to Special Programs

## Chapter 1004

### Public Postsecondary Education

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**1004.0961 Credit for online courses.**—Beginning in the 2015-2016 school year, the State Board of Education shall adopt rules and the Board of Governors shall adopt regulations that enable students to earn academic credit for online courses, including massive open online courses, before initial enrollment at a postsecondary institution. The rules of the State Board of Education and regulations of the Board of Governors must include procedures

for credential evaluation and the award of credit, including, but not limited to, recommendations for credit by the American Council on Education; equivalency and alignment of coursework with appropriate courses; course descriptions; type and amount of credit that may be awarded; and transfer of credit.

History.—s. 6, ch. 2013-225; s. 50, ch. 2014-39.

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**1004.44 Louis de la Parte Florida Mental Health Institute.**—There is established the Louis de la Parte Florida Mental Health Institute within the University of South Florida.

(1) The purpose of the institute is to strengthen mental health services throughout the state by providing technical assistance and support services to mental health agencies and mental health professionals. Such assistance and services shall include:

(a) Technical training and specialized education.

(b) Development, implementation, and evaluation of mental health service programs.

(c) Evaluation of availability and effectiveness of existing mental health services.

(d) Analysis of factors that influence the incidence and prevalence of mental and emotional disorders.

(e) Dissemination of information about innovations in mental health services.

(f) Consultation on all aspects of program development and implementation.

(g) Provisions for direct client services, provided for a limited period of time either in the institute facility or in other facilities within the state, and limited to purposes of research or training.

(2) The Department of Children and Families is authorized to designate the Louis de la Parte Florida Mental Health Institute a treatment facility for the purpose of accepting voluntary and involuntary clients in accordance with institute programs. Clients to be admitted are exempted from prior screening by a community mental health center.

(3) The institute may provide direct services in coordination with other agencies. The institute may also provide support services to state agencies through joint programs, collaborative agreements, contracts, and grants.

(4) The institute shall operate under the authority of the President of the University of South Florida and shall employ a mental health professional as director. The director shall hold a faculty appointment in a university's college or department related to mental health within the university. The director has primary responsibility for establishing active liaisons with the community of mental health professionals and other related constituencies in the state and may, with approval of the university president, establish appropriate statewide advisory groups to assist in developing these communication links.

History.—s. 190, ch. 2002-387; s. 371, ch. 2014-19.

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**1004.444 Florida Center for Cybersecurity.**—

(1) The Florida Center for Cybersecurity is established within the University of South Florida.

(2) The goals of the center are to:

(a) Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement.

(b) Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce.

(c) Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training.

(d) Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives.

(e) Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.

History.—s. 10, ch. 2014-56.

**1004.55 Regional autism centers; public record exemptions.—**

(1) Seven regional autism centers are established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Service delivery shall be consistent for all centers. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(a) The College of Medicine at Florida State University, which serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(b) The College of Medicine at the University of Florida, which serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties.

(c) The University of Florida Health Science Center at Jacksonville, which serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties.

(d) The Louis de la Parte Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

(e) The Mailman Center for Child Development and the Department of Psychology at the University of Miami, which serves Broward, Miami-Dade, and Monroe Counties.

(f) The College of Health and Public Affairs at the University of Central Florida, which serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties.

(g) The Department of Exceptional Student Education at Florida Atlantic University, which serves Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties.

(2) There is established for each center a constituency board, which shall work collaboratively with the center. Each board shall consist of no fewer than six members, each of whom is either an individual who has a disability that is described in subsection (1) or is a member of a family that includes a person who has such a disability, who are selected by each university president from a list that has been developed by the Autism Society of

Florida and other relevant constituency groups that represent persons who have sensory impairments as described in subsection (1). As representatives of the center's constituencies, these boards shall meet quarterly with the staff of each of the centers to provide advice on policies, priorities, and activities. Each board shall submit to the university president and to the Department of Education an annual report that evaluates the activities and accomplishments of its center during the year. The board for each center should raise funds equivalent to 2 percent of the total funds allocated to that center in each fiscal year.

(3) To promote statewide planning and coordination, a conference must be held annually for staff from each of the seven centers and representatives from each center's constituency board. The purpose of the conference is to facilitate coordination, networking, cross-training, and feedback among the staffs and constituency boards of the centers.

(4) Each center shall provide:

(a) A staff that has expertise in autism and autistic-like behaviors and in sensory impairments.

(b) Individual and direct family assistance in the home, community, and school. A center's assistance should not supplant other responsibilities of state and local agencies, and each school district is responsible for providing an appropriate education program for clients of a center who are school age.

(c) Technical assistance and consultation services, including specific intervention and assistance for a client of the center, the client's family, and the school district, and any other services that are appropriate.

(d) Professional training programs that include developing, providing, and evaluating preservice and inservice training in state-of-the-art practices for personnel who work with the populations served by the centers and their families.

(e) Public education programs to increase awareness of the public about autism, autistic-related disabilities of communication and behavior, dual sensory impairments, and sensory impairments with other handicapping conditions.

(f) Coordination and dissemination of local and regional information regarding available resources for services for children with the developmental disabilities described in subsection (1).

(g) Support to state agencies in the development of training for early child care providers and educators with respect to the developmental disabilities described in subsection (1).

(5) The State Board of Education, in cooperation with the regional autism centers, shall adopt the necessary rules to carry out the purposes of this section.

(6)(a) Client records.—

1. All records that relate to a client of a regional autism center who receives the services of

a center or participates in center activities, and all records that relate to the client's family, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. A client who receives the services of a center, if competent, or the client's parent or legal guardian if the client is incompetent, shall be provided with a copy of the client's individual record upon request.

3. A regional autism center may release the confidential and exempt records as follows:

a. To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.

b. In response to a subpoena or to persons authorized by order of court.

c. To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of the client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Provided that personal identifying information of a client or the client's family has been removed, a regional autism center may release information contained in the confidential and exempt records as follows:

a. To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the regional autism center, agrees to maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential information obtained.

b. For statistical and research purposes by the director of the center or designee, provided that any confidential and exempt information is removed in the reporting of such statistical or research data.

(b) Donor information.—Personal identifying information of a donor or prospective donor to a regional autism center who desires to remain anonymous is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Review and repeal.—This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 202, ch. 2002-387; s. 1, ch. 2005-49; s. 183, ch. 2008-4; s. 6, ch. 2008-204; s. 15, ch. 2009-59; s. 5, ch. 2010-224; s. 1, ch. 2011-221.



# Florida Statutes Pertaining to Special Programs

## Chapter 1006

### Support for Learning

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#### **1006.03 Diagnostic and learning resource centers.—**

(1) The department shall maintain regional diagnostic and learning resource centers for exceptional students, to assist in the provision of medical, physiological, psychological, and educational testing and other services designed to evaluate and diagnose exceptionalities, to make referrals for necessary instruction and services, and to facilitate the provision of instruction and services to exceptional students. The department shall cooperate with the Department of Children and Families in identifying service needs and areas.

(2) Within its identified service area, each regional center shall:

(a) Provide assistance to parents, teachers, and other school personnel and community organizations in locating and identifying exceptional children and planning educational programs for them.

(b) Assist in the provision of services for exceptional children, using to the maximum, but not supplanting, the existing facilities and services of each district.

(c) Provide orientation meetings at least annually for teachers, principals, supervisors, and community agencies to familiarize them with center facilities and services for exceptional children.

(d) Plan, coordinate, and assist in the implementation of inservice training programs, consistent with each district's program of staff development, for the development and updating

of attitudes, skills, and instructional practices and procedures necessary to the education of exceptional children.

(e) Assist districts in the identification, selection, acquisition, use, and evaluation of media and materials appropriate to the implementation of instructional programs based on individual educational plans for exceptional children.

(f) Provide for the dissemination and diffusion of significant information and promising practices derived from educational research, demonstration, and other projects.

(g) Assist in the delivery, modification, and integration of instructional technology, including microcomputer applications and adaptive and assistive devices, appropriate to the unique needs of exceptional students.

(3) Diagnostic and resource centers may provide testing and evaluation services to private school students and other children who are not enrolled in public schools.

(4) Diagnostic and learning resource centers may assist districts in providing testing and evaluation services for infants and preschool children with or at risk of developing disabilities, and may assist districts in providing interdisciplinary training and resources to parents of infants and preschool children with or at risk of developing disabilities and to school readiness programs.

History.—s. 267, ch. 2002-387; s. 374, ch. 2014-19.

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#### **1006.04 Educational multiagency services for students with severe emotional disturbance.—**

(1)(a) An intensive, integrated educational program; a continuum of mental health treatment services; and, when needed, residential services are necessary to enable students with severe emotional disturbance to develop appropriate behaviors and demonstrate academic and career education skills. The small incidence of severe emotional disturbance in the total school population requires multiagency programs to provide access to appropriate services for all students with severe emotional disturbance. District school boards should provide educational programs, and state departments and agencies administering children's mental health funds should provide mental health treatment and residential services when needed, forming a multiagency network to provide support for students with severe emotional disturbance.

(b) The program goals for each component of the multiagency network are to enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully

participate in all aspects of school and community living; to develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services; to provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and to integrate a wide range of services necessary to support students with severe emotional disturbance and their families.

(2) The department may award grants to district school boards for statewide planning and development of the multiagency network for students with severe emotional disturbance. The educational services shall be provided in a manner consistent with the requirements of ss. 402.22 and 1003.57.

(3) State departments and agencies may use appropriate funds for the multiagency network for students with severe emotional disturbance.

History.—s. 269, ch. 2002-387.



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**1006.062 Administration of medication and provision of medical services by district school board personnel.—**

(1) Notwithstanding the provisions of the Nurse Practice Act, part I of chapter 464, district school board personnel may assist students in the administration of prescription medication when the following conditions have been met:

(a) Each district school board shall include in its approved school health services plan a procedure to provide training, by a registered nurse, a licensed practical nurse, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459, to the school personnel designated by the school principal to assist students in the administration of prescribed medication. Such training may be provided in collaboration with other school districts, through contract with an education consortium, or by any other arrangement consistent with the intent of this subsection.

(b) Each district school board shall adopt policies and procedures governing the administration of prescription medication by district school board personnel. The policies and procedures shall include, but not be limited to, the following provisions:

1. For each prescribed medication, the student's parent shall provide to the school principal a written statement which grants to the school principal or the principal's designee permission to assist in the administration of such medication and which explains the necessity for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business. The school principal or the principal's trained designee shall assist the student in the administration of the medication.

2. Each prescribed medication to be administered by district school board personnel shall be received, counted, and stored in its original container. When the medication is not in use, it shall be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.

(2) There shall be no liability for civil damages as a result of the administration of the

medication when the person administering the medication acts as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.

(3) Nonmedical district school board personnel shall not be allowed to perform invasive medical services that require special medical knowledge, nursing judgment, and nursing assessment, including, but not limited to:

(a) Sterile catheterization.

(b) Nasogastric tube feeding.

(c) Cleaning and maintaining a tracheostomy and deep suctioning of a tracheostomy.

(4) Nonmedical assistive personnel shall be allowed to perform health-related services upon successful completion of child-specific training by a registered nurse or advanced registered nurse practitioner licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. All procedures shall be monitored periodically by a nurse, advanced registered nurse practitioner, physician assistant, or physician, including, but not limited to:

(a) Intermittent clean catheterization.

(b) Gastrostomy tube feeding.

(c) Monitoring blood glucose.

(d) Administering emergency injectable medication.

(5) For all other invasive medical services not listed in this subsection, a registered nurse or advanced registered nurse practitioner licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459 shall determine if nonmedical district school board personnel shall be allowed to perform such service.

(6) Each district school board shall establish emergency procedures in accordance with s. 381.0056(4) for life-threatening emergencies.

(7) District school board personnel shall not refer students to or offer students at school facilities contraceptive services without the consent of a parent or legal guardian. To the extent that this subsection conflicts with any provision of chapter 381, the provisions of chapter 381 control.

*History.—s. 274, ch. 2002-387; s. 120, ch. 2013-15.*

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**1006.0625 Administration of psychotropic medication; prohibition; conditions.—**

(1) As used in this section, the term “psychotropic medication” means a prescription medication that is used for the treatment of mental disorders and includes, without limitation, antihypnotics, antipsychotics, antidepressants, anxiety agents, sedatives, psychomotor stimulants, and mood stabilizers.

(2) A public school may not deny any student access to programs or services because the parent of the student has refused to place the student on

psychotropic medication.

(3) A public school teacher and school district personnel may share school-based observations of a student's academic, functional, and behavioral performance with the student's parent and offer program options and other assistance that is available to the parent and the student based on the observations. However, a public school teacher and school district personnel may not compel or attempt to compel any specific actions by the parent or require that a student take medication. A parent may refuse psychological screening of the

student.

Any medical decision made to address a student's needs is a matter between the student,

the student's parent, and a competent health care professional chosen by the parent.

History.—s. 6, ch. 2005-65.

**1006.07 District school board duties relating to student discipline and school safety.**—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(1) CONTROL OF STUDENTS.—

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion. Suspension hearings are exempted from the provisions of chapter 120. Expulsion hearings shall be governed by ss. 120.569 and 120.57(2) and are exempt from s. 286.011. However, the student's parent must be given notice of the provisions of s. 286.011 and may elect to have the hearing held in compliance with that section. The district school board may prohibit the use of corporal punishment, if the district school board adopts or has adopted a written program of alternative control or discipline.

(b) Require each student at the time of initial registration for school in the school district to note previous school expulsions, arrests resulting in a charge, and juvenile justice actions the student has had, and have the authority as the district school board of a receiving school district to honor the final order of expulsion or dismissal of a student by any in-state or out-of-state public district school board or private school, or lab school, for an act which would have been grounds for expulsion according to the receiving district school board's code of student conduct, in accordance with the following procedures:

1. A final order of expulsion shall be recorded in the records of the receiving school district.

2. The expelled student applying for admission to the receiving school district shall be advised of the final order of expulsion.

3. The district school superintendent of the receiving school district may recommend to the district school board that the final order of expulsion be waived and the student be admitted to the school district, or that the final order of expulsion be honored and the student not be admitted to the school district. If the student is admitted by the district school board, with or without the recommendation of the district school superintendent, the student may be placed in an appropriate educational program at the direction of the district school board.

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high

schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(a) Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in chapter 893.

(b) Procedures to be followed for acts requiring discipline, including corporal punishment.

(c) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

(d)1. An explanation of the responsibilities of each student with regard to appropriate dress, respect for self and others, and the role that appropriate dress and respect for self and others has on an orderly learning environment. Each district school board shall adopt a dress code policy that prohibits a student, while on the grounds of a public school during the regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment.

2. Any student who violates the dress policy described in subparagraph 1. is subject to the following disciplinary actions:

a. For a first offense, a student shall be given a verbal warning and the school principal shall call the student's parent or guardian.

b. For a second offense, the student is ineligible to participate in any extracurricular activity for a period of time not to exceed 5 days and the school principal shall meet with the student's parent or guardian.

c. For a third or subsequent offense, a student shall receive an in-school suspension pursu-

ant to s. 1003.01(5) for a period not to exceed 3 days, the student is ineligible to participate in any extracurricular activity for a period not to exceed 30 days, and the school principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

(e) Notice that illegal use, possession, or sale of controlled substances, as defined in chapter 893, by any student while the student is upon school property or in attendance at a school function is grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(f) Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.

(g) Notice that the possession of a firearm or weapon as defined in chapter 790 by any student while the student is on school property or in attendance at a school function is grounds for disciplinary action and may also result in criminal prosecution. Simulating a firearm or weapon while playing or wearing clothing or accessories that depict a firearm or weapon or express an opinion regarding a right guaranteed by the Second Amendment to the United States Constitution is not grounds for disciplinary action or referral to the criminal justice or juvenile justice system under this section or s. 1006.13. Simulating a firearm or weapon while playing includes, but is not limited to:

1. Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon.
2. Possessing a toy firearm or weapon that is 2 inches or less in overall length.
3. Possessing a toy firearm or weapon made of plastic snap-together building blocks.
4. Using a finger or hand to simulate a firearm or weapon.
5. Vocalizing an imaginary firearm or weapon.
6. Drawing a picture, or possessing an image, of a firearm or weapon.
7. Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

However, a student may be subject to disciplinary action if simulating a firearm or weapon while playing substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. The severity of consequences imposed upon a student, including referral to the criminal justice or juvenile justice system, must be proportionate

to the severity of the infraction and consistent with district school board policies for similar infractions. If a student is disciplined for such conduct, the school principal or his or her designee must call the student's parent. Disciplinary action resulting from a student's clothing or accessories shall be determined pursuant to paragraph (d) unless the wearing of the clothing or accessory causes a substantial disruption to student learning, in which case the infraction may be addressed in a manner that is consistent with district school board policies for similar infractions. This paragraph does not prohibit a public school from adopting a school uniform policy.

(h) Notice that violence against any district school board personnel by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(i) Notice that violation of district school board transportation policies, including disruptive behavior on a school bus or at a school bus stop, by a student is grounds for suspension of the student's privilege of riding on a school bus and may be grounds for disciplinary action by the school and may also result in criminal penalties being imposed.

(j) Notice that violation of the district school board's sexual harassment policy by a student is grounds for in-school suspension, out-of-school suspension, expulsion, or imposition of other disciplinary action by the school and may also result in criminal penalties being imposed.

(k) Policies to be followed for the assignment of violent or disruptive students to an alternative educational program.

(l) Notice that any student who is determined to have brought a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation, or to have possessed a firearm at school, will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred to the criminal justice or juvenile justice system. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

(m) Notice that any student who is determined to have made a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property,

school transportation, or a school-sponsored activity will be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year and referred for criminal prosecution. District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system.

(3) **STUDENT CRIME WATCH PROGRAM.**—By resolution of the district school board, implement a student crime watch program to promote responsibility among students and to assist in the control of criminal behavior within the schools.

(4) **EMERGENCY DRILLS; EMERGENCY PROCEDURES.**—

(a) Formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, and bomb threats, for all the public schools of the district which comprise grades K-12. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes. The emergency response agency that is responsible for notifying the school district for each type of emergency must be listed in the district's emergency response policy.

(b) Establish model emergency management and emergency preparedness procedures, including emergency notification procedures pursuant to paragraph (a), for the following life-threatening emergencies:

1. Weapon-use and hostage situations.
2. Hazardous materials or toxic chemical spills.
3. Weather emergencies, including hurricanes, tornadoes, and severe storms.

4. Exposure as a result of a manmade emergency.

(5) **EDUCATIONAL SERVICES IN DETENTION FACILITIES.**—Offer educational services to minors who have not graduated from high school and eligible students with disabilities under the age of 22 who have not graduated with a standard diploma or its equivalent who are detained in a county or municipal detention facility as defined in s. 951.23. These educational services shall be based upon the estimated length of time the student will be in the facility and the student's current level of functioning. District school superintendents or their designees shall be notified by the county sheriff or chief correctional officer, or his or her designee, upon the assignment of a student under the age of 21 to the facility. A cooperative agreement with the district school board and applicable law enforcement units shall be developed to address the notification requirement and the provision of educational services to these students.

(6) **SAFETY AND SECURITY BEST PRACTICES.**—Use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the district school superintendent shall provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security. Annually each district school board must receive the self-assessment results at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the report findings. Each district school superintendent shall report the self-assessment results and school board action to the commissioner within 30 days after the district school board meeting.

History.—s. 277, ch. 2002-387; s. 1, ch. 2004-272; s. 2, ch. 2010-204; s. 11, ch. 2011-51; s. 1, ch. 2011-103; s. 1, ch. 2013-63; s. 1, ch. 2014-219.

#### **1006.08 District school superintendent duties relating to student discipline and school safety.**—

(1) The district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age, for the attendance and control of students at school, and for the proper attention to health, safety, and other matters which will best promote the welfare of students. Each district school superintendent shall fully support the authority of his or her principals, teachers, and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when

appropriate and available, to place such students in an alternative educational setting. When the district school superintendent makes a recommendation for expulsion to the district school board, he or she shall give written notice to the student and the student's parent of the recommendation, setting forth the charges against the student and advising the student and his or her parent of the student's right to due process as prescribed by ss. 120.569 and 120.57(2). When district school board action on a recommendation for the expulsion of a student is pending, the district school superintendent may extend the suspension assigned by the principal beyond 10 school days if such suspension period

expires before the next regular or special meeting of the district school board.

(2) Notwithstanding the provisions of s. 985.04(7) or any other provision of law to the contrary, the court shall, within 48 hours of the finding, notify the appropriate district school superintendent of the name and address of any student found to have committed a delinquent act, or who has had adjudication of a delinquent act withheld which, if committed by an adult, would be a felony, or the name and address of any student found guilty of a felony. Notification shall include the specific delinquent act found to have been com-

mitted or for which adjudication was withheld, or the specific felony for which the student was found guilty.

(3) Except to the extent necessary to protect the health, safety, and welfare of other students, the information obtained by the district school superintendent pursuant to this section may be released only to appropriate school personnel or as otherwise provided by law.

History.—s. 278, ch. 2002-387; s. 38, ch. 2003-391; s. 128, ch. 2006-120.

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#### **1006.09 Duties of school principal relating to student discipline and school safety.—**

(1)(a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unex-

cused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. A recommendation of expulsion or assignment to a second chance school may also be made for any student found to have intentionally made false accusations that jeopardize the professional reputation, employment, or professional certification of a teacher or other member of the school staff, according to the district school board code of student conduct. Any recommendation of expulsion shall include a detailed report by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the school pursuant to rules adopted by the State Board of Education and to rules developed pursuant to s. 1001.54, to have an adverse impact on the educational program, discipline, or welfare in the school



in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district school superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district school board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) A student may be disciplined or expelled for unlawful possession or use of any substance controlled under chapter 893 upon the third violation of this provision.

(4) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the school principal shall make full and effective use of the provisions of subsection (2) and s. 1006.13(6). A school principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay or the differentiated pay under s. 1012.22. However, if any party responsible for notification fails to properly notify the school, the school principal shall be eligible for the performance pay or differentiated pay.

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**1006.10 Authority of school bus drivers and district school boards relating to student discipline and student safety on school buses.—**

(1) The school bus driver shall require order and good behavior by all students being transported on school buses.

(2) The district school board shall require a

(5) Any recommendation for the suspension or expulsion of a student with a disability must be made in accordance with rules adopted by the State Board of Education.

(6) Each school principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each school principal to report data concerning school safety and discipline.

(8) The school principal shall require all school personnel to report to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in s. 893.02; any counterfeit controlled substance, as defined in s. 831.31; any alcoholic beverage, as defined in s. 561.01(4); or model glue. School personnel are exempt from civil liability when reporting in good faith to the proper school authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. Reports made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a verified report made under this subsection with respect to the student has been made and forwarded.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

History.—s. 279, ch. 2002-387; s. 39, ch. 2003-391; s. 36, ch. 2006-74; s. 2, ch. 2009-53; s. 8, ch. 2011-1; s. 21, ch. 2013-35.

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system of progressive discipline of transported students for actions which are prohibited by the code of student conduct. Disciplinary actions, including suspension of students from riding on district school board owned or contracted school buses, shall be subject to district school board policies and procedures and may be imposed by the

principal or the principal's designee. The principal or the principal's designee may delegate any disciplinary authority to school bus drivers except for suspension of students from riding the bus.

(3) The school bus driver shall control students during the time students are on the school bus, but shall not have such authority when students are waiting at the school bus stop or when students are en route to or from the school bus stop except when the bus is present at the bus stop.

(4) If an emergency should develop due to the conduct of students on the bus, the school bus driver may take such steps as are immediately necessary to protect the students on the bus.

(5) School bus drivers shall not be required to operate a bus under conditions in which one or more students pose a clear and present danger to the safety of the driver or other students, or the

safety of the bus while in operation. The district school board shall have measures in place designed to protect the school bus driver from threats or physical injury from students.

(6) District school boards may use transportation, school safety, or FEFP funds to provide added security for buses transporting disruptive or delinquent students to and from school or other educational activities.

(7) In the case of a student having engaged in violent or blatantly unsafe actions while riding the school bus, the district school board shall take corrective measures to ensure, to the extent feasible, that such actions are not repeated prior to reassigning the student to the bus.

History.—s. 280, ch. 2002-387.

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#### **1006.13 Policy of zero tolerance for crime and victimization.—**

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances. The Legislature finds that zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(2) Each district school board shall adopt a policy of zero tolerance that:

(a) Defines criteria for reporting to a law enforcement agency any act that occurs whenever or wherever students are within the jurisdiction of the district school board.

(b) Defines acts that pose a serious threat to school safety.

(c) Defines petty acts of misconduct.

(d) Minimizes the victimization of students, staff, or volunteers, including taking all steps necessary to protect the victim of any violent crime from any further victimization.

(e) Establishes a procedure that provides each student with the opportunity for a review of the disciplinary action imposed pursuant to s. 1006.07.

(3) Zero-tolerance policies must require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred to the criminal justice or juvenile justice system.

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program for the purpose of continuing educational services during the period of expulsion. District school superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student who has a disability, the district school board shall comply with applicable State Board of Education rules.

(4)(a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.

(b) The agreements must include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.

(c) Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray,

theft of less than \$300, trespassing, and vandalism of less than \$1,000.

(d) The school principal shall ensure that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

(5) Notwithstanding any other provision of law, each district school board shall adopt rules providing that any student found to have committed any offense in s. 784.081(1), (2), or (3) shall be expelled or placed in an alternative school setting or other program, as appropriate. Upon being charged with the offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

(6)(a) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any student who is attending a public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

1. Chapter 782, relating to homicide;
2. Chapter 784, relating to assault, battery, and culpable negligence;
3. Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;
4. Chapter 794, relating to sexual battery;
5. Chapter 800, relating to lewdness and indecent exposure;
6. Chapter 827, relating to abuse of children;
7. Section 812.13, relating to robbery;
8. Section 812.131, relating to robbery by sudden snatching;
9. Section 812.133, relating to carjacking; or
10. Section 812.135, relating to home-invasion robbery, and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate district school board of the adjudication or plea, the requirements in this paragraph, and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.455(2). Upon receipt of such notice, the district school board shall take appropriate action to effectuate the provisions in paragraph (b).

(b) Each district school board shall adopt a cooperative agreement with the Department of Juvenile Justice which establishes guidelines for ensuring that any no contact order entered by a

court is reported and enforced and that all of the necessary steps are taken to protect the victim of the offense. Any offender described in paragraph (a), who is not exempted as provided in paragraph (a), may not attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the district school board to attend another school within the district in which the offender resides, only if the other school is not attended by the victim or sibling of the victim of the offense; or the offender may be permitted by another district school board to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides.

(c) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending a school in another school district, the district school board in the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a district school board to keep the offender separated from the victim must include, but are not limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(d) The offender, or the parents of the offender if the offender is a juvenile, shall arrange and pay for transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents of the offender may not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district school board.

(7) Any disciplinary or prosecutorial action taken against a student who violates a zero-tolerance policy must be based on the particular circumstances of the student's misconduct.

(8) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

History.—s. 283, ch. 2002-387; s. 129, ch. 2006-120; s. 3, ch. 2009-53.

**1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—**

(1) This section may be cited as the “Craig Dickinson Act.”

(2) Interscholastic extracurricular student activities are an important complement to the academic curriculum. Participation in a comprehensive extracurricular and academic program contributes to student development of the social and intellectual skills necessary to become a well-rounded adult. As used in this section, the term “extracurricular” means any school-authorized or education-related activity occurring during or outside the regular instructional school day.

(3)(a) To be eligible to participate in interscholastic extracurricular student activities, a student must:

1. Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1002.3105(5) or s. 1003.4282.

2. Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents, if the student’s cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1002.3105(5) or s. 1003.4282. At a minimum, the contract must require that the student attend summer school, or its graded equivalent, between grades 9 and 10 or grades 10 and 11, as necessary.

3. Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1002.3105(5) or s. 1003.4282 during his or her junior or senior year.

4. Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in s. 1006.07(2). If a student is convicted of, or is found to have committed, a felony or a delinquent act that would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the student’s participation in interscholastic extracurricular activities is contingent upon established and published district school board policy.

(b) Any student who is exempt from attending a full school day based on rules adopted by the district school board for double session schools or programs, experimental schools, or schools operating under emergency conditions must maintain the grade point average required by this section and pass each class for which he or she is enrolled.

(c) An individual home education student is eligible to participate at the public school to which the student would be assigned according to district

school board attendance area policies or which the student could choose to attend pursuant to district or interdistrict controlled open enrollment provisions, or may develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school, provided the following conditions are met:

1. The home education student must meet the requirements of the home education program pursuant to s. 1002.41.

2. During the period of participation at a school, the home education student must demonstrate educational progress as required in paragraph (b) in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal which may include: review of the student’s work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a Florida College System institution, university, or trade school; standardized test scores above the 35th percentile; or any other method designated in s. 1002.41.

3. The home education student must meet the same residency requirements as other students in the school at which he or she participates.

4. The home education student must meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.

5. The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A home education student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to subparagraph 2. to become eligible to participate as a home education student.

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board at-

tendance area policies or which the student could choose to attend, pursuant to district or inter-district controlled open-enrollment provisions, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

- (e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open enrollment policies, if the student:

1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).

2. Meets any additional requirements as

determined by the board of trustees of the Florida Virtual School.

3. Meets the same residency requirements as other students in the school at which he or she participates.

4. Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. Registers his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity in which he or she wishes to participate. A Florida Virtual School student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

- (f) A student who transfers from the Florida Virtual School full-time program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year pursuant to paragraph (a).

- (g) A public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a Florida Virtual School student until the student successfully completes one grading period in the Florida Virtual School pursuant to paragraph (a).

- (4) The student standards for participation in interscholastic extracurricular activities must be applied beginning with the student's first semester of the 9th grade. Each student must meet such other requirements for participation as may be established by the district school board; however, a district school board may not establish requirements for participation in interscholastic extracurricular activities which make participation in such activities less accessible to home education students than to other students. Except as set forth in paragraph (3)(c), evaluation processes or requirements that are placed on home education student participants may not go beyond those that apply under s. 1002.41 to home education students generally.

- (5) Any organization or entity that regulates or governs interscholastic extracurricular activities of public schools:

- (a) Shall permit home education associations to join as member schools.

- (b) Shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

- (6) Public schools are prohibited from membership in any organization or entity which regulates or governs interscholastic extracurricular activities and discriminates against eligible students in public, private, or home education.



(7) Any insurance provided by district school boards for participants in extracurricular activities shall cover the participating home education student. If there is an additional premium for such coverage, the participating home education student shall pay the premium.

(8)(a) The Florida High School Athletic Association (FHSAA), in cooperation with each district school board, shall facilitate a program in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic sport at a public high school, a public middle school, or a 6-12 public school that is zoned for the physical address at which the student resides if:

1. The private school in which the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.

2. The private school student meets the guidelines for the conduct of the program established by the FHSAA's board of directors and the district school board. At a minimum, such guidelines shall provide:

a. A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.

b. Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

(b) The parents of a private school student

participating in a public school sport under this subsection are responsible for transporting their child to and from the public school at which the student participates. The private school the student attends, the public school at which the student participates in a sport, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs to the student during such transportation.

(c) For each academic year, a private school student may only participate at the public school in which the student is first registered under subparagraph (a)2.a. or makes himself or herself a candidate for an athletic team by engaging in a practice.

(d) The athletic director of each participating FHSAA member public school shall maintain the student records necessary for eligibility, compliance, and participation in the program.

(e) Any non-FHSAA member private school that has a student who wishes to participate in this program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request of the FHSAA.

(f) A student must apply to participate in this program through the FHSAA program application process.

(g) Only students who are enrolled in non-FHSAA member private schools consisting of 125 students or fewer are eligible to participate in the program in any given academic year.

History.—s. 288, ch. 2002-387; s. 1, ch. 2008-228; s. 17, ch. 2011-3; s. 75, ch. 2011-5; s. 2, ch. 2011-103; s. 1, ch. 2011-117; s. 9, ch. 2012-192; s. 52, ch. 2013-35; s. 182, ch. 2014-17; s. 59, ch. 2014-39.

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#### **1006.165 Automated external defibrillator; user training.—**

(1) Each public school that is a member of the Florida High School Athletic Association must have an operational automated external defibrillator on the school grounds. Public and private partnerships are encouraged to cover the cost associated with the purchase and placement of the defibrillator and training in the use of the defibrillator.

(2) Each school must ensure that all employees or volunteers who are reasonably expected to use the device obtain appropriate training,

including completion of a course in cardiopulmonary resuscitation or a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an automated external defibrillator.

(3) The location of each automated external defibrillator must be registered with a local emergency medical services medical director.

(4) The use of automated external defibrillators by employees and volunteers is covered under ss. 768.13 and 768.1325.

History.—s. 8, ch. 2006-301.

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#### **1006.21 Duties of district school superintendent and district school board regarding transportation.—**

(1) The district school superintendent shall ascertain which students should be transported to school or to school activities, determine the most effective arrangement of transportation routes to accommodate these students; recommend such routing to the district school board; recommend

plans and procedures for providing facilities for the economical and safe transportation of students; recommend such rules as may be necessary and see that all rules relating to the transportation of students approved by the district school board, as well as rules of the State Board of Education, are properly carried into effect, as prescribed in this chapter.

(2) After considering recommendations of the

district school superintendent, the district school board shall make provision for the transportation of students to the public schools or school activities they are required or expected to attend; authorize transportation routes arranged efficiently and economically; provide the necessary transportation facilities, and, when authorized under rules of the State Board of Education and if more economical to do so, provide limited subsistence in lieu thereof; and adopt the necessary rules to ensure safety, economy, and efficiency in the operation of all buses, as prescribed in this chapter.

(3) District school boards, after considering recommendations of the district school superintendent:

(a) Shall provide transportation for each student in prekindergarten disability programs and in kindergarten through grade 12 membership in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport students whose homes are more than a reasonable walking distance, as defined by rules of the State Board of Education, from the nearest appropriate school.

(b) Shall provide transportation for public elementary school students in membership whose grade level does not exceed grade 6, and may provide transportation for public school students in membership in grades 7 through 12, if such students are subjected to hazardous walking conditions as provided in s. 1006.23 while en route to or from school.

(c) May provide transportation for public school migrant, exceptional, nursery, and other public school students in membership below kindergarten; kindergarten through grade 12 students in membership in a public school; and adult students in

membership in adult career, basic, and high school graduation programs in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available.

(d) May provide transportation for the transportation disadvantaged as defined in s. 427.011 and for other school-age children as provided for in s. 1006.261.

(e) Shall provide necessary transportation to pregnant students or student parents, and the children of those students, when the district school board operates a teenage parent program pursuant to s. 1003.54.

(f) May provide transportation for other persons to events or activities in which the district school board or school has agreed to participate or cosponsor. The district school board shall adopt a policy to address liability for trips pursuant to this paragraph.

(g) May provide transportation for welfare transition program participants as defined in s. 414.0252.

(4) In each case in which transportation of students is impracticable in the opinion of the district school board, the district school board may take steps for making available educational facilities as are authorized by law or rule of the State Board of Education and as, in the opinion of the district school board, are practical.

(5) Contiguous school districts shall make provisions for reciprocal policies and agreements for contracts for school bus transportation services, inspections, and screening requirements for public schools and public charter schools.

History.—s. 295, ch. 2002-387; s. 47, ch. 2004-41; s. 102, ch. 2004-357; s. 17, ch. 2009-59.

**1006.22 Safety and health of students being transported.**—Maximum regard for safety and adequate protection of health are primary requirements that must be observed by district school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and rules of the State Board of Education in providing transportation pursuant to s. 1006.21:

(1)(a) District school boards shall use school buses, as defined in s. 1006.25, for all regular transportation. Regular transportation or regular use means transportation of students to and from school or school-related activities that are part of a scheduled series or sequence of events to the same location. “Students” means, for the purposes of this section, students enrolled in the public schools in prekindergarten disability programs and in kindergarten through grade 12. District school boards may regularly use motor vehicles other than school buses only under the following conditions:

1. When the transportation is for physically handicapped or isolated students and the district school board has elected to provide for the transportation of the student through written or oral contracts or agreements.

2. When the transportation is a part of a comprehensive contract for a specialized educational program between a district school board and a service provider who provides instruction, transportation, and other services.

3. When the transportation is provided through a public transit system.

4. When the transportation is for trips to and from school sites or agricultural education sites or for trips to and from agricultural education-related events or competitions, but is not for customary transportation between a student’s residence and such sites.

(b) When the transportation of students is provided, as authorized in this subsection, in a vehicle other than a school bus that is owned, operated,

rented, contracted, or leased by a school district or charter school, the following provisions shall apply:

1. The vehicle must be a passenger car or multipurpose passenger vehicle or truck, as defined in 49 C.F.R. part 571, designed to transport fewer than 10 students. Students must be transported in designated seating positions and must use the occupant crash protection system provided by the manufacturer unless the student's physical condition prohibits such use.

2. An authorized vehicle may not be driven by a student on a public right-of-way. An authorized vehicle may be driven by a student on school or private property as part of the student's educational curriculum if no other student is in the vehicle.

3. The driver of an authorized vehicle transporting students must maintain a valid driver's license and must comply with the requirements of the school district's locally adopted safe driver plan, which includes review of driving records for disqualifying violations.

4. The district school board or charter school must adopt a policy that addresses procedures and liability for trips under this paragraph, including a provision that school buses are to be used whenever practical and specifying consequences for violation of the policy.

(2) Except as provided in subsection (1), district school boards may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis only in the following circumstances:

- (a) When a student is ill or injured and must be taken home or to a medical treatment facility under nonemergency circumstances; and

1. The school has been unable to contact the student's parent or the parent or responsible adult designated by the parent is not available to provide the transportation;

2. Proper adult supervision of the student is available at the location to which the student is being transported;

3. The transportation is approved by the school principal, or a school administrator designated by the principal to grant or deny such approval, or in the absence of the principal and designee, by the highest ranking school administrator or teacher available under the circumstances; and

4. If the school has been unable to contact the parent prior to the transportation, the school shall continue to seek to contact the parent until the school is able to notify the parent of the transportation and the pertinent circumstances.

- (b) When the transportation is in connection with a school function or event regarding which the district school board or school has undertaken to participate or to sponsor or provide the participation of students; and

1. The function or event is a single event that is not part of a scheduled series or sequence

of events to the same location, such as, but not limited to, a field trip, a recreational outing, an interscholastic competition or cooperative event, an event connected with an extracurricular activity offered by the school, or an event connected to an educational program, such as, but not limited to, a job interview as part of a cooperative education program;

2. Transportation is not available, as a practical matter, using a school bus or school district passenger car; and

3. Each student's parent is notified, in writing, regarding the transportation arrangement and gives written consent before a student is transported in a privately owned motor vehicle.

(c) When a district school board requires employees such as school social workers and attendance officers to use their own motor vehicles to perform duties of employment, and such duties include the occasional transportation of students.

(3) When approval is granted for the transportation of students in a privately owned vehicle, the provisions of s. 1006.24 regarding liability for tort claims are applicable. District school board employees who provide approved transportation in privately owned vehicles are acting within the scope of their employment. Parents or other responsible adults who provide approved transportation in privately owned vehicles have the same exposure to, and protections from, risks of personal liability as do district school board employees acting within the scope of their employment.

(4) Each district school board may establish policies that restrict the use of privately owned motor vehicles to circumstances that are more limited than are described in this section or that prohibit such use. Each district school board may establish written policies that provide for more extensive requirements for approval, parental notification and consent procedures, insurance coverage, driver qualifications, or a combination of these.

(5) When transportation is authorized in privately owned vehicles, students may be transported only in designated seating positions and must use the occupant crash protection system provided by the vehicle manufacturer.

(6) District school boards may contract with a common carrier to transport students to and from in-season and postseason athletic contests and to and from a school function or event in which the district school board or a school has undertaken to participate or to provide for or sponsor the participation of students.

(7) Transportation for adult students may be provided by any appropriate means as authorized by the district school board when the transportation is accepted as a responsibility by the district school board as provided in s. 1006.21.

(8) Notwithstanding any other provision of this

section, in an emergency situation that constitutes an imminent threat to student health or safety, school personnel may take whatever action is necessary under the circumstances to protect student health and safety.

(9) Except as provided in s. 1006.261, transportation is not the responsibility of the district school board in connection with any event or activity that is not an event or activity offered by the district school board or an event or an activity in which the district school board or school has agreed to participate, cosponsor, or require the participation of students, and the district school board has no liability for transportation arranged and provided by parents or other parties to such events or activities.

(10) Each district school board shall designate and adopt a specific plan for adequate examination, maintenance, and repair of transportation equipment. Examination of the mechanical and safety condition of each school bus must be made as required pursuant to rule of the State Board of Education. The State Board of Education shall base the rule on student safety considerations.

(11) The district school superintendent shall notify the district school board of any school bus that does not meet all requirements of law and rules of the State Board of Education, and the district school board shall, if the school bus is in an unsafe condition, withdraw it from use as a school bus until the bus meets the requirements. The department may inspect or have inspected any school bus to determine whether the bus meets requirements of law and rules of the State Board of Education. The department may, after due notice to a district school board that any school bus does not meet certain requirements of law and rules of the State Board of Education, rule that the bus must be withdrawn from use as a school bus, this ruling to be effective immediately or upon a date specified in the ruling, whereupon the district school board shall withdraw the school bus from use as a school bus until it meets requirements of law and rules of the State Board of Education and until the department has officially revoked the pertinent ruling. Notwithstanding any other provisions of this chapter, general purpose urban transit systems are declared qualified to transport students to and from school.

(12)(a) The routing and scheduling of school

buses must be planned to eliminate the necessity for students to stand while a school bus is in motion. When circumstances of an emergency nature, as defined by written district school board policy, temporarily require transporting students on school buses in excess of the rated seating capacity, the buses must proceed at a reduced rate of speed to maximize safety of the students, taking into account existing traffic conditions. Each district school board is responsible for prompt relief of the emergency condition by providing additional equipment, bus rerouting, bus rescheduling, or other appropriate remedial action, and must maintain written district school board policies to address such situations.

(b) Each district school board, after considering recommendations from the district school superintendent, shall designate, by map or otherwise, or shall provide by district school board rule for the designation of, nontransportation zones that are composed of all areas in the school district from which it is unnecessary or impracticable to furnish transportation. Nontransportation zones must be designated annually before the opening of school and the designation of bus routes for the succeeding school year. Each district school board, after considering recommendations from the district school superintendent, shall specifically designate, or shall provide by district school board rule for the designation of, specific routes to be traveled regularly by school buses, and each route must meet the requirements prescribed by rules of the State Board of Education.

(c) Each district school board shall establish school bus stops, or provide by district school board rule for the establishment of school bus stops, as necessary at the most reasonably safe locations available. Where unusual traffic hazards exist at school bus stops on roads maintained by the state outside of municipalities, the Department of Transportation, in concurrence and cooperation with and upon request of the district school board, shall place signs at such bus stops warning motorists of the location of the stops.

(13) The State Board of Education may adopt rules to implement this section as are necessary or desirable in the interest of student health and safety.

History.—s. 296, ch. 2002-387; s. 14, ch. 2006-301.

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**1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—**

<sup>1</sup>(1) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The term “adequate instructional materials” means a sufficient number

of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature. The

district school board has the following specific duties and responsibilities:

(a) Courses of study; adoption.—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials used in a classroom, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available in the classroom.

2. Each district school board must adopt a policy regarding a parent's objection to his or her child's use of a specific instructional material, which clearly describes a process to handle all objections and provides for resolution.

3. Each district school board must establish a process by which the parent of a public school student may contest the district school board's adoption of a specific instructional material. The parent must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent, include the required contact information, and state the objection to the instructional material. Within 30 days after the 30-day period has expired, the school board must conduct at least one open public hearing on all petitions timely received and provide the petitioner written notification of the date and time of the hearing at least 7 days before the hearing. All instructional materials contested must be made accessible online to the public at least 7 days before a public hearing. The school board's decision after convening a hearing is final and not subject to further petition or review.

(b) Instructional materials.—Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials and furnish such other instructional materials as may be needed. Instructional materials used must be consistent with the district goals and objectives and the course descriptions established in rule of the State Board of Education, as well as with the applicable Next Generation Sunshine State Standards provided for in s. 1003.41.

(c) Other instructional materials.—Provide such other teaching accessories and aids as are needed for the school district's educational program.

(d) School library media services; establishment and maintenance.—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such trav-

eling or circulating libraries as may be needed for the proper operation of the district school system.

(2) DISTRICT SCHOOL SUPERINTENDENT.—

(a) The district school superintendent has the duty to recommend such plans for improving, providing, distributing, accounting for, and caring for instructional materials and other instructional aids as will result in general improvement of the district school system, as prescribed in this part, in accordance with adopted district school board rules prescribing the duties and responsibilities of the district school superintendent regarding the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials, and providing for an evaluation of any instructional materials to be requisitioned that have not been used previously in the district's schools. The district school superintendent must keep adequate records and accounts for all financial transactions for funds collected pursuant to subsection (3).

(b) Each district school superintendent shall notify the department by April 1 of each year the state-adopted instructional materials that will be requisitioned for use in his or her school district. The notification shall include a district school board plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

(3) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of instructional materials at the school:

(a) Proper use of instructional materials.—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) Money collected for lost or damaged instructional materials; enforcement.—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) Sale of instructional materials.—The school principal, upon request of the parent of a student in the school, shall sell to the parent any



instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) Disposition of funds.—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) Accounting for instructional materials.—Principals shall see that all instructional materials

are fully and properly accounted for as prescribed by adopted rules of the district school board.

History.—s. 303, ch. 2002-387; s. 18, ch. 2009-59; s. 1, ch. 2009-222; s. 17, ch. 2010-154; s. 18, ch. 2011-55; s. 1, ch. 2013-237; s. 1, ch. 2014-15; s. 60, ch. 2014-39.

\*Note.—Section 6, ch. 2014-15, provides that “[t]his act does not limit or remove the responsibility of each school district to include in its curriculum the required instruction specified in s. 1003.42, Florida Statutes, including, but not limited to, the following: the history of the United States; the history of the Holocaust; the history of African Americans; the study of Hispanic contributions to the United States; the study of women’s contributions to the United States; the nature and importance of free enterprise to the United States economy; patriotism; the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation; the elementary principles of agriculture; and kindness to animals.”

#### **1006.283 District school board instructional materials review process.—**

(1) A district school board or consortium of school districts may implement an instructional materials program that includes the review, recommendation, adoption, and purchase of instructional materials. The district school superintendent shall certify to the department by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district shall be included in the certification.

(2)(a) If a district school board chooses to implement its own instructional materials program, the school board shall adopt rules implementing the district’s instructional materials program which must include its processes, criteria, and requirements for the following:

1. Selection of reviewers, one or more of whom must be parents with children in public schools.
2. Review of instructional materials.
3. Selection of instructional materials, including a thorough review of curriculum content.
4. Reviewer recommendations.
5. District school board adoption.
6. Purchase of instructional materials.

(b) District school board rules must also:

1. Identify, by subject area, a review cycle for instructional materials.
2. Specify the qualifications for an instructional materials reviewer and the process for selecting reviewers; list a reviewer’s duties and responsibilities, including compliance with the requirements of s. 1006.31; and provide that all instructional materials recommended by a reviewer be accompanied by the reviewer’s statement that the materials align with the state standards pursuant to s. 1003.41 and the requirements of s. 1006.31.
3. State the requirements for an affidavit to be made by each district instructional materials reviewer which substantially meet the requirements of s. 1006.30.

4. Comply with s. 1006.32, relating to prohibited acts.

5. Establish a process that certifies the accuracy of instructional materials.

6. Incorporate applicable requirements of s. 1006.31, which relates to the duties of instructional materials reviewers.

7. Incorporate applicable requirements of s. 1006.38, relating to the duties, responsibilities, and requirements of publishers of instructional materials.

8. Establish the process by which instructional materials are adopted by the district school board, which must include:

a. A process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the school board hearing and public meeting as specified in this subparagraph. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

b. An open, noticed school board hearing to receive public comment on the recommended instructional materials.

c. An open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased through the district school board instructional materials review process pursuant to this section. This public meeting must be held on a different date than the school board hearing.

d. Notice requirements for the school board hearing and the public meeting that must specifically state which instructional materials are being reviewed and the manner in which the instructional materials can be accessed for public review.

9. Establish the process by which the district school board shall receive public comment on, and review, the recommended instructional materials.

10. Establish the process by which instructional materials will be purchased, including advertising, bidding, and purchasing requirements.

11. Establish the process by which the school

district will notify parents of their ability to access their children's instructional materials through the district's local instructional improvement system and by which the school district will encourage parents to access the system. This notification must be displayed prominently on the school district's website and provided annually in written format to all parents of enrolled students.

(3)(a) The school board may assess and collect fees from publishers participating in the instructional materials approval process. The amount assessed and collected must be posted on the school district's website and reported to the department. The fees may not exceed the actual cost of the review process, and the fees may not exceed \$3,500 per submission by a publisher. Any fees collected for this process shall be allocated for the support of the review process and maintained in a separate line item for auditing purposes.

(b) The fees shall be used to cover the actual cost of substitute teachers for each workday that a member of a school district's instructional staff is absent from his or her assigned duties for the purpose of rendering service as an instructional materials reviewer. In addition, each reviewer may be paid a stipend and is entitled to reimbursement for travel expenses and per diem in accordance with s. 112.061 for actual service in meetings.

(4) Instructional materials that have been reviewed by the district instructional materials reviewers and approved must have been determined to align with all applicable state standards pursuant to s. 1003.41 and the requirements in s.

1006.31. The district school superintendent shall annually certify to the department that all instructional materials for core courses used by the district are aligned with all applicable state standards and have been reviewed, selected, and adopted by the district school board in accordance with the school board hearing and public meeting requirements of this section.

(5) A publisher that offers instructional materials to a district school board must provide such materials at a price that, including all costs of electronic transmission, does not exceed the lowest price at which the publisher offers such instructional materials for approval or sale to any state or school district in the United States.

(6) A publisher shall reduce automatically the price of the instructional materials to the district school board to the extent that reductions in price are made elsewhere in the United States.

(7) The school district shall make available, upon request for public inspection, sample copies of all instructional materials that have been purchased by the district school board.

History.—s. 2, ch. 2013-237; s. 2, ch. 2014-15.

<sup>1</sup>Note.—Section 6, ch. 2014-15, provides that "[t]his act does not limit or remove the responsibility of each school district to include in its curriculum the required instruction specified in s. 1003.42, Florida Statutes, including, but not limited to, the following: the history of the United States; the history of the Holocaust; the history of African Americans; the study of Hispanic contributions to the United States; the study of women's contributions to the United States; the nature and importance of free enterprise to the United States economy; patriotism; the events surrounding the terrorist attacks occurring on September 11, 2001, and the impact of those events on the nation; the elementary principles of agriculture; and kindness to animals."

**1006.38 Duties, responsibilities, and requirements of instructional materials publishers and manufacturers.**—This section applies to both the state and district approval processes. Publishers and manufacturers of instructional materials, or their representatives, shall:

(1) Comply with all provisions of this part.

(2) Electronically deliver fully developed sample copies of all instructional materials upon which bids are based to the department pursuant to procedures adopted by the State Board of Education.

(3) Submit, at a time designated in s. 1006.33, the following information:

(a) Detailed specifications of the physical characteristics of the instructional materials, including any software or technological tools required for use by the district, school, teachers, or students. The publisher or manufacturer shall comply with these specifications if the instructional materials are adopted and purchased in completed form.

(b) Evidence that the publisher or manufacturer has provided materials that address the performance standards provided for in s. 1001.03(1) and that can be accessed through the school

district's digital classrooms plan and a variety of electronic, digital, and mobile devices.

(c) Evidence that the instructional materials include specific references to statewide standards in the teacher's manual and incorporate such standards into chapter tests or the assessments.

(4) Make available for purchase by any district school board any diagnostic, criterion-referenced, or other tests that they may develop.

(5) Furnish the instructional materials offered by them at a price in the state which, including all costs of electronic transmission, may not exceed the lowest price at which they offer such instructional materials for adoption or sale to any state or school district in the United States.

(6) Reduce automatically the price of the instructional materials to any district school board to the extent that reductions are made elsewhere in the United States.

(7) Provide any instructional materials free of charge in the state to the same extent as they are provided free of charge to any state or school district in the United States.

(8) Guarantee that all copies of any instructional materials sold in this state will be at least equal in quality to the copies of such instructional

materials that are sold elsewhere in the United States and will be kept revised, free from all errors, and up-to-date as may be required by the department.

(9) Agree that any supplementary material developed at the district or state level does not violate the author's or publisher's copyright, provided such material is developed in accordance with the doctrine of fair use.

(10) Not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in instructional materials, nor enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in the state.

(11) Maintain or contract with a depository in the state.

(12) For the core subject areas specified in s. 1006.40(2), maintain in the depository for the first 3 years of the contract an inventory of instructional materials sufficient to receive and fill orders.

(13) For the core subject areas specified in s. 1006.40(2), ensure the availability of an inventory sufficient to receive and fill orders for instructional materials for growth, including the opening of a new school, and replacement during the 3rd and subsequent years of the original contract period.

(14) Accurately and fully disclose only the

names of those persons who actually authored the instructional materials. In addition to the penalties provided in subsection (16), the commissioner may remove from the list of state-adopted instructional materials those instructional materials whose publisher or manufacturer misleads the purchaser by falsely representing genuine authorship.

(15) Grant, without prior written request, for any copyright held by the publisher or its agencies automatic permission to the department or its agencies for the reproduction of instructional materials and supplementary materials in Braille, large print, or other appropriate format for use by visually impaired students or other students with disabilities that would benefit from use of the materials.

(16) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, be liable to the department in the amount of three times the total sum which the publisher or manufacturer was paid in excess of the price required under subsections (5) and (6) and in the amount of three times the total value of the instructional materials and services which the district school board is entitled to receive free of charge under subsection (7).

History.—s. 313, ch. 2002-387; s. 29, ch. 2011-55; s. 5, ch. 2013-237; s. 13, ch. 2014-56.



# Florida Statutes Pertaining to Special Programs

## Chapter 1007

### Articulation and Access

**1007.02 Students with disabilities; definition.**—For the purposes of this chapter, the term “student with a disability” means a student who is documented as having an intellectual disability; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; an emotional or behavioral dis-

ability; an orthopedic or other health impairment; an autism spectrum disorder; a traumatic brain injury; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

History.—s. 1, ch. 2003-8; s. 7, ch. 2008-204; s. 65, ch. 2014-39.

**1007.2615 American Sign Language; findings; foreign-language credits authorized; teacher licensing.**—

(1) LEGISLATIVE FINDINGS; PURPOSE.—

(a) The Legislature finds that:

1. American Sign Language (ASL) is a fully developed visual-gestural language with distinct grammar, syntax, and symbols and is one of hundreds of signed languages of the world.

2. ASL is recognized as the language of the American deaf community and is the fourth most commonly used language in the United States and Canada.

3. The American deaf community is a group of citizens who are members of a unique culture who share ASL as their common language.

(b) It is the intent of the Legislature to recognize ASL as the language of the American deaf community, to authorize public and independent schools to offer ASL as a course of study, and to accept secondary-school ASL credits as foreign-language credits.

(2) AMERICAN SIGN LANGUAGE; FOREIGN-LANGUAGE CREDIT.—

(a) American Sign Language is a visual-gestural system of communication used by many in the deaf community living in the United States and Canada. It is a complete and complex language that has its own syntax, rhetoric, and grammar and that is used to convey information and meaning through signs made with the hands, arms, facial gestures, and other body movements.

(b) Any public or independent school may offer American Sign Language for foreign-language credit. Students taking American Sign Language for foreign-language credit must be advised by the school board prior to enrollment in such course that state universities and postsecondary institutions outside of Florida may not accept such credits as satisfying foreign-language requirements.

(3) DUTIES OF COMMISSIONER OF EDUCATION AND STATE BOARD OF EDUCATION; LICENSING OF AMERICAN SIGN LANGUAGE TEACHERS; PLAN FOR POSTSECONDARY EDUCATION PROVIDERS.—

(a) The State Board of Education shall adopt rules establishing licensing/certification standards to be applied to teachers who teach American Sign Language (ASL) as part of a school curriculum.

(b) An ASL teacher must be certified by the Department of Education.

(c) The Commissioner of Education shall work with providers of postsecondary education, except for state universities, to develop and implement a plan to ensure that these institutions in this state will accept secondary school credits in ASL as credits in a foreign language and to encourage postsecondary institutions to offer ASL courses to students as a fulfillment of the requirement for studying a foreign language.

History.—s. 1, ch. 2003-119; s. 38, ch. 2006-74; s. 116, ch. 2007-217; s. 94, ch. 2011-5; s. 66, ch. 2014-39.

**1007.2616 Computer science and technology instruction.**—

(1) Public schools shall provide students in grades K-12 opportunities for learning computer science, including, but not limited to, computer coding and computer programming. Such opportunities may include coding instruction in elementary school and middle school, instruction to develop students’ computer usage and digital literacy skills in middle school, and courses in computer science, computer coding, and computer programming in high school, including earning-related industry

certifications.

(2) Elementary schools and middle schools may establish digital classrooms in which students are provided opportunities to improve digital literacy and competency; to learn digital skills, such as coding, multiple media presentation, and the manipulation of multiple digital graphic images; and to earn digital tool certificates and certifications pursuant to s. 1003.4203 and grade-appropriate, technology-related industry certifications.

(3) High schools may provide students opportunities to take computer science courses to satisfy



high school graduation requirements, including, but not limited to, the following:

(a) High school computer science courses of sufficient rigor, as identified by the commissioner, such that one credit in computer science and the earning of related industry certifications constitute the equivalent of up to one credit of the mathematics requirement, with the exception of Algebra I or higher-level mathematics, or up to one credit of the science requirement, with the exception of Biology I or higher-level science, for high school graduation. Computer science courses and technology-related industry certifications that are identified as eligible for meeting mathematics or science requirements for high school graduation shall be included in the Course Code Directory.

(b) High school computer technology courses in 3D rapid prototype printing of sufficient rigor, as identified by the commissioner, such that one or more credits in such courses and related industry certifications earned may satisfy up to two credits of mathematics required for high school graduation with the exception of Algebra I. Computer technology courses in 3D rapid prototype printing and related industry certifications that are identified as eligible for meeting mathematics requirements for high school graduation shall be included in the Course Code Directory.

(4) The State Board of Education may adopt rules to administer this section.

History.—s. 19, ch. 2014-56.

**1007.263 Florida College System institutions; admissions of students.**—Each Florida College System institution board of trustees is authorized to adopt rules governing admissions of students subject to this section and rules of the State Board of Education. These rules shall include the following:

(1) Admissions counseling shall be provided to all students entering college or career credit programs. For students who are not otherwise exempt from testing under s. 1008.30, counseling must use tests to measure achievement of college-level communication and computation competencies by students entering college credit programs or tests to measure achievement of basic skills for career education programs as prescribed in s. 1004.91. Counseling includes providing developmental education options for students whose assessment results, determined under s. 1008.30, indicate that they need to improve communication or computation skills that are essential to perform college-level work.

(2) Admission to associate degree programs is subject to minimum standards adopted by the State Board of Education and shall require:

(a) A standard high school diploma, a high school equivalency diploma as prescribed in s. 1003.435, previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 1002.41. Students who are enrolled in a

dual enrollment or early admission program pursuant to s. 1007.271 are exempt from this requirement.

(b) A demonstrated level of achievement of college-level communication and computation skills.

(c) Any other requirements established by the board of trustees.

(3) Admission to other programs within the Florida College System institution shall include education requirements as established by the board of trustees.

<sup>1</sup>(4) A student who has been awarded a special diploma under s. 1003.438 or a certificate of completion under s. 1003.4282 is eligible to enroll in certificate career education programs.

(5) A student with a documented disability may be eligible for reasonable substitutions, as prescribed in ss. 1007.264 and 1007.265.

Each board of trustees shall establish policies that notify students about developmental education options for improving their communication or computation skills that are essential to performing college-level work, including tutoring, extended time in gateway courses, free online courses, adult basic education, adult secondary education, or private provider instruction.

History.—s. 354, ch. 2002-387; s. 3, ch. 2003-8; s. 96, ch. 2011-5; s. 18, ch. 2012-191; s. 52, ch. 2013-27; s. 53, ch. 2013-35; s. 16, ch. 2013-51; s. 67, ch. 2014-39; s. 26, ch. 2014-184.

<sup>1</sup>Note.—Section 26, ch. 2014-184, amended subsection (4), effective July 1, 2015, to read:

(4) A student who has been awarded a certificate of completion under s. 1003.4282 is eligible to enroll in certificate career education programs.

**1007.264 Persons with disabilities; admission to postsecondary educational institutions; substitute requirements; rules and regulations.**—

(1) A student with a disability who is otherwise eligible shall be eligible for reasonable substitution for any requirement for admission into a public postsecondary educational institution where documentation can be provided that the person's failure to meet the admission requirement

is related to the disability.

(2) The State Board of Education, in consultation with the Board of Governors, shall adopt rules to implement this section for Florida College System institutions and shall develop substitute admission requirements where appropriate.

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt regulations to implement this section for state

universities and shall develop substitute admission requirements where appropriate.

History.—s. 355, ch. 2002-387; s. 4, ch. 2003-8; s. 118, ch. 2007-217; s. 8, ch. 2008-204; s. 19, ch. 2010-78; s. 97, ch. 2011-5; s. 9, ch. 2011-177; s. 68, ch. 2014-39.

**1007.265 Persons with disabilities; graduation, study program admission, and upper-division entry; substitute requirements; rules and regulations.—**

(1) A student with a disability in a public postsecondary educational institution shall be eligible for reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division where documentation can be provided that the person's failure to meet the requirement is related to the disability and where failure to meet the graduation requirement or program admission requirement does not constitute a fundamental alteration in the nature of the program.

(2) The State Board of Education, in consultation with the Board of Governors, shall adopt rules to implement this section for Florida College System institutions and shall develop substitute requirements where appropriate.

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt regulations to implement this section for state universities and shall develop substitute requirements where appropriate.

History.—s. 5, ch. 2003-8; s. 119, ch. 2007-217; s. 9, ch. 2008-204; s. 20, ch. 2010-78; s. 98, ch. 2011-5; s. 10, ch. 2011-177; s. 69, ch. 2014-39.

**1007.27 Articulated acceleration mechanisms.—**

(1) It is the intent of the Legislature that a variety of articulated acceleration mechanisms be available for secondary and postsecondary students attending public educational institutions. It is intended that articulated acceleration serve to shorten the time necessary for a student to complete the requirements associated with the conference of a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject. Articulated acceleration mechanisms shall include, but are not limited to, dual enrollment and early admission as provided for in s. 1007.271, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program. Credit earned through the Florida Virtual School shall provide additional opportunities for early graduation and acceleration. Students of Florida public secondary schools enrolled pursuant to this subsection shall be deemed authorized users of the state-funded electronic library resources that are licensed for Florida College System institutions and state universities by the Florida Academic Library Services Cooperative. Verification of eligibility shall be in accordance with rules established by the State Board of Education and regulations established by the Board of Governors and processes implemented by Florida College System institutions and state universities.

(2) The Department of Education shall annually identify and publish the minimum scores, maximum credit, and course or courses for which credit is to be awarded for each College Level Examination Program (CLEP) subject examination, College Board Advanced Placement Program examination, Advanced International Certificate of Education examination, and International Baccalaureate examination. The department shall use student perfor-

mance data in subsequent postsecondary courses to determine the appropriate examination scores and courses for which credit is to be granted. Minimum scores may vary by subject area based on available performance data. In addition, the department shall identify such courses in the general education core curriculum of each state university and Florida College System institution.

(3) Each Florida College System institution and state university must award credit for specific courses for which competency has been demonstrated by successful passage of one of the examinations in subsection (2) unless the award of credit duplicates credit already awarded. Florida College System institutions and state universities may not exempt students from courses without the award of credit if competencies have been so demonstrated.

(4) It is the intent of the Legislature to provide articulated acceleration mechanisms for students who are in home education programs, as defined in s. 1002.01, consistent with the educational opportunities available to public and private secondary school students. Home education students may participate in dual enrollment, career dual enrollment, early admission, and credit by examination. Credit earned by home education students through dual enrollment shall apply toward the completion of a home education program that meets the requirements of s. 1002.41.

(5) Advanced placement shall be the enrollment of an eligible secondary student in a course offered through the Advanced Placement Program administered by the College Board. Postsecondary credit for an advanced placement course shall be limited to students who score a minimum of 3, on a 5-point scale, on the corresponding Advanced Placement Examination. The specific courses for which students receive such credit shall be identified in the statewide articulation agreement required by s. 1007.23(1). Students of Florida public secondary schools enrolled pursuant to this subsec-

tion shall be exempt from the payment of any fees for administration of the examination regardless of whether or not the student achieves a passing score on the examination.

(6) Credit by examination shall be the program through which secondary and postsecondary students generate postsecondary credit based on the receipt of a specified minimum score on nationally standardized general or subject-area examinations. For the purpose of statewide application, such examinations and the corresponding minimum scores required for an award of credit shall be delineated by the State Board of Education and the Board of Governors in the statewide articulation agreement required by s. 1007.23(1). The maximum credit generated by a student pursuant to this subsection shall be mitigated by any related postsecondary credit earned by the student prior to the administration of the examination. This subsection shall not preclude Florida College System institutions and universities from awarding credit by examination based on student performance on examinations developed within and recognized by the individual postsecondary institutions.

(7) The International Baccalaureate Program shall be the curriculum in which eligible secondary students are enrolled in a program of studies offered through the International Baccalaureate Program administered by the International Baccalaureate Office. The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the cutoff scores and International Baccalaureate Examinations which will be used to grant postsecondary credit at Florida College System institutions and universities. Any changes to the articulation agreement, which have the effect of raising the required cutoff score or of changing the International Baccalaureate Examinations which will be used to grant postsecondary credit, shall only apply to students taking International Baccalaureate Examinations after such changes are adopted by the State Board of Education and the Board of Governors. Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student may receive such credit shall be specified

in the statewide articulation agreement required by s. 1007.23(1). Students enrolled pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations regardless of whether or not the student achieves a passing score on the examination.

(8) The Advanced International Certificate of Education Program and the International General Certificate of Secondary Education (pre-AICE) Program shall be the curricula in which eligible secondary students are enrolled in programs of study offered through the Advanced International Certificate of Education Program or the International General Certificate of Secondary Education (pre-AICE) Program administered by the University of Cambridge Local Examinations Syndicate. The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the cutoff scores and Advanced International Certificate of Education examinations which will be used to grant postsecondary credit at Florida College System institutions and universities. Any changes to the cutoff scores, which changes have the effect of raising the required cutoff score or of changing the Advanced International Certification of Education examinations which will be used to grant postsecondary credit, shall apply to students taking Advanced International Certificate of Education examinations after such changes are adopted by the State Board of Education and the Board of Governors. Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student may receive such credit shall be determined by the Florida College System institution or university that accepts the student for admission. Students enrolled in either program of study pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations regardless of whether the student achieves a passing score on the examination.

History.—s. 356, ch. 2002-387; s. 6, ch. 2003-8; s. 167, ch. 2004-5; s. 108, ch. 2004-357; s. 5, ch. 2005-196; s. 120, ch. 2007-217; s. 22, ch. 2010-154; s. 99, ch. 2011-5; s. 11, ch. 2011-177; s. 17, ch. 2012-134; s. 19, ch. 2012-191; s. 20, ch. 2014-56.

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#### **1007.273 Collegiate high school program.—**

(1) Each Florida College System institution shall work with each district school board in its designated service area to establish one or more collegiate high school programs.

(2) At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least 1 full school year, to earn CAPE industry certifications pursuant to s. 1008.44 and to successfully complete 30 credit hours through the dual enrollment program under

s. 1007.271 toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.

(3) Each district school board and its local Florida College System institution shall execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. Beginning with the 2015-2016 school year, if the institution does not establish a program with a district school board in its designated service area, another Florida College System institution may execute a contract with that district

school board to establish the program. The contract must be executed by January 1 of each school year for implementation of the program during the next school year. The contract must:

(a) Identify the grade levels to be included in the collegiate high school program which must, at a minimum, include grade 12.

(b) Describe the collegiate high school program, including the delineation of courses and industry certifications offered, including online course availability; the high school and college credits earned for each postsecondary course completed and industry certification earned; student eligibility criteria; and the enrollment process and relevant deadlines.

(c) Describe the methods, medium, and process by which students and their parents are annually informed about the availability of the collegiate high school program, the return on investment associated with participation in the program, and the information described in paragraphs (a) and (b).

(d) Identify the delivery methods for instruction and the instructors for all courses.

(e) Identify student advising services and progress monitoring mechanisms.

(f) Establish a program review and reporting mechanism regarding student performance outcomes.

(g) Describe the terms of funding arrangements to implement the collegiate high school program.

(4) Each student participating in a collegiate high school program must enter into a student performance contract which must be signed by the

student, the parent, and a representative of the school district and the applicable Florida College System institution, state university, or other institution participating pursuant to subsection (5). The performance contract must include the schedule of courses, by semester, and industry certifications to be taken by the student, student attendance requirements, and course grade requirements.

(5) In addition to executing a contract with the local Florida College System institution under this section, a district school board may execute a contract to establish a collegiate high school program with a state university or an institution that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. Such university or institution must meet the requirements specified under subsections (3) and (4).

(6) The collegiate high school program shall be funded pursuant to ss. 1007.271 and 1011.62. The State Board of Education shall enforce compliance with this section by withholding the transfer of funds for the school districts and the Florida College System institutions in accordance with s. 1008.32.

History.—s. 10, ch. 2014-184.





# Florida Statutes Pertaining to Special Programs

## Chapter 1008

### Assessment and Accountability

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#### **1008.212 Students with disabilities; extraordinary exemption.—**

(1) As used in this section, the term:

(a) “Circumstance” means a situation in which accommodations allowable for use on the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment pursuant to s. 1008.22(3)(c) are not offered to a student during the current year’s assessment administration due to technological limitations in the testing administration program which lead to results that reflect the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment.

(b) “Condition” means an impairment, whether recently acquired or longstanding, which affects a student’s ability to communicate in modes deemed acceptable for statewide assessments, even if appropriate accommodations are provided, and creates a situation in which the results of administration of the statewide standardized assessment, an end-of-course assessment, or an alternate assessment would reflect the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment.

(2) A student with a disability for whom the individual education plan (IEP) team determines is prevented by a circumstance or condition from physically demonstrating the mastery of skills that have been acquired and are measured by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment pursuant to s. 1008.22(3)(c) shall be granted an extraordinary exemption from the administration of the assessment. A learning, emotional, behavioral, or significant cognitive disability, or the receipt of services through the homebound or hospitalized program in accordance with rule 6A-6.03020, Florida Administrative Code, is not, in and of itself, an adequate criterion for the granting of an extraordinary exemption.

(3) The IEP team, which must include the parent, may submit to the district school superintendent a written request for an extraordinary exemption at any time during the school year, but not later than 60 days before the current year’s assessment administration for which the request is

made. A request must include all of the following:

(a) A written description of the student’s disabilities, including a specific description of the student’s impaired sensory, manual, or speaking skills.

(b) Written documentation of the most recent evaluation data.

(c) Written documentation, if available, of the most recent administration of the statewide standardized assessment, an end-of-course assessment, or an alternate assessment.

(d) A written description of the condition’s effect on the student’s participation in the statewide standardized assessment, an end-of-course assessment, or an alternate assessment.

(e) Written evidence that the student has had the opportunity to learn the skills being tested.

(f) Written evidence that the student has been provided appropriate instructional accommodations.

(g) Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student’s IEP which are allowable in the administration of the statewide standardized assessment, an end-of-course assessment, or an alternate assessment in prior assessments.

(h) Written evidence of the circumstance or condition as defined in subsection (1).

(4) Based upon the documentation provided by the IEP team, the school district superintendent shall recommend to the Commissioner of Education whether an extraordinary exemption for a given assessment administration window should be granted or denied. A copy of the school district’s procedural safeguards as required in rule 6A-6.03311, Florida Administrative Code, shall be provided to the parent. If the parent disagrees with the IEP team’s recommendation, the dispute resolution methods described in the procedural safeguards shall be made available to the parent. Upon receipt of the request, documentation, and recommendation, the commissioner shall verify the information documented, make a determination, and notify the parent and the district school superintendent in writing within 30 days after the receipt of the request whether the exemption has been granted or denied. If the commissioner grants the exemption, the student’s progress must be assessed in accordance with the goals established in the student’s individual education plan. If the commissioner denies the exemption, the notification must state the reasons for the denial.

(5) The parent of a student with a disability who disagrees with the commissioner's denial of an extraordinary exemption may request an expedited hearing. If the parent requests the expedited hearing, the Department of Education shall inform the parent of any free or low-cost legal services and other relevant services available in the area. The Department of Education shall arrange a hearing with the Division of Administrative Hearings, which must be commenced within 20 school days after the parent's request for the expedited hearing. The administrative law judge at the division shall make a determination within 10 school days after the expedited hearing. The standard of review for the expedited hearing is de novo, and the department has the burden of proof.

(6) Beginning June 30, 2014, and each June 30 thereafter, the commissioner shall annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives the number of extraordinary exemptions requested under this section, the number of extraordinary exemptions granted under this section, and the criteria by which all decisions were made. The commissioner shall regularly inform district testing and special education administrators of the procedures established in this section.

(7) The State Board of Education shall adopt rules to administer this section.

History.—s. 7, ch. 2013-236.

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**1008.22 Student assessment program for public schools.—**

(1) **PURPOSE.**—The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff. This data is to be used by districts to improve instruction; by students, parents, and teachers to guide learning objectives; by education researchers to assess national and international education comparison data; and by the public to assess the cost benefit of the expenditure of taxpayer dollars. The program must be designed to:

(a) Assess the achievement level and annual learning gains of each student in English Language Arts and mathematics and the achievement level in all other subjects assessed.

(b) Provide data for making decisions regarding school accountability, recognition, and improvement of operations and management, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.

(c) Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school.

(d) Assess how well educational goals and curricular standards are met at the school, district, state, national, and international levels.

(e) Provide information to aid in the evaluation and development of educational programs and policies.

(2) **NATIONAL AND INTERNATIONAL EDUCATION COMPARISONS.**—Florida school districts shall participate in the administration of the National Assessment of Educational Progress, or similar national or international assessments, both for the national sample and for any state-by-state comparison programs that may be initiated, as directed by the commissioner. The assessments must be conducted using the data collection procedures,

student surveys, educator surveys, and other instruments included in the National Assessment of Educational Progress or similar national or international assessments being administered in Florida. The administration of such assessments shall be in addition to and separate from the administration of the statewide, standardized assessments.

(3) **STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.**—The Commissioner of Education shall design and implement a statewide, standardized assessment program aligned to the core curricular content established in the Next Generation Sunshine State Standards. The commissioner also must develop or select and implement a common battery of assessment tools that will be used in all juvenile justice education programs in the state. These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards. Participation in the assessment program is mandatory for all school districts and all students attending public schools, including adult students seeking a standard high school diploma under s. 1003.4282 and students in Department of Juvenile Justice education programs, except as otherwise provided by law. If a student does not participate in the assessment program, the school district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. The statewide, standardized assessment program shall be designed and implemented as follows:

(a) **Statewide, standardized comprehensive assessments.**—The statewide, standardized Reading assessment shall be administered annually in grades 3 through 10. The statewide, standardized Writing assessment shall be administered annually at least once at the elementary, middle, and high school levels. When the Reading and Writing assessments are replaced by English Language Arts (ELA) assessments, ELA assessments shall be administered to students in grades 3 through 11. Retake opportunities for the grade 10 Reading assessment or, upon implementation, the grade 10 ELA assessment must

be provided. Students taking the ELA assessments shall not take the statewide, standardized assessments in Reading or Writing. ELA assessments shall be administered online. The statewide, standardized Mathematics assessments shall be administered annually in grades 3 through 8. Students taking a revised Mathematics assessment shall not take the discontinued assessment. The statewide, standardized Science assessment shall be administered annually at least once at the elementary and middle grades levels. In order to earn a standard high school diploma, a student who has not earned a passing score on the grade 10 Reading assessment or, upon implementation, the grade 10 ELA assessment must earn a passing score on the assessment retake or earn a concordant score as authorized under subsection (7).

(b) End-of-course (EOC) assessments.—EOC assessments must be statewide, standardized, and developed or approved by the Department of Education as follows:

1. Statewide, standardized EOC assessments in mathematics shall be administered according to this subparagraph. Beginning with the 2010-2011 school year, all students enrolled in Algebra I must take the Algebra I EOC assessment. Except as otherwise provided in paragraph (c), beginning with students entering grade 9 in the 2011-2012 school year, a student who is enrolled in Algebra I must earn a passing score on the Algebra I EOC assessment or attain a comparative score as authorized under subsection (8) in order to earn a standard high school diploma. In order to earn a standard high school diploma, a student who has not earned a passing score on the Algebra I EOC assessment must earn a passing score on the assessment retake or a comparative score as authorized under subsection (8). Beginning with the 2011-2012 school year, all students enrolled in Geometry must take the Geometry EOC assessment. Middle grades students enrolled in Algebra I, Geometry, or Biology I must take the statewide, standardized EOC assessment for those courses and shall not take the corresponding subject and grade-level statewide, standardized assessment. When a statewide, standardized EOC assessment in Algebra II is administered, all students enrolled in Algebra II must take the EOC assessment. Pursuant to the commissioner's implementation schedule, student performance on the Algebra II EOC assessment constitutes 30 percent of a student's final course grade.

2. Statewide, standardized EOC assessments in science shall be administered according to this subparagraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I must take the Biology I EOC assessment. Beginning with students entering grade 9 in the 2013-2014 school year, performance on the Biology I EOC assessment constitutes 30 percent of the student's final course grade.

3. Beginning with the 2013-2014 school year, each student's performance on the statewide, standardized middle grades Civics EOC assessment constitutes 30 percent of the student's final course grade in civics education.

4. The commissioner may select one or more nationally developed comprehensive examinations, which may include examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, for use as EOC assessments under this paragraph if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade-level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. Use of any such examination as an EOC assessment must be approved by the state board in rule.

5. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the commissioner may establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments that must be approved by the state board in rule. If approved by the state board, student performance on such assessments constitutes 30 percent of a student's final course grade.

6. All statewide, standardized EOC assessments must be administered online except as otherwise provided in paragraph (c).

(c) Students with disabilities; Florida Alternate Assessment.—

1. Each district school board must provide instruction to prepare students with disabilities in the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation.

2. A student with a disability, as defined in s. 1007.02, for whom the individual education plan (IEP) team determines that the statewide, standardized assessments under this section cannot accurately measure the student's abilities, taking into consideration all allowable accommodations, shall have assessment results waived for the purpose of receiving a course grade and a standard high school diploma. Such waiver shall be designated on the student's transcript. The statement of waiver shall be limited to a statement that performance on an assessment was waived for the purpose of receiving a course grade or a standard high school diploma, as applicable.

3. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of assessment accommodations for students with disabilities and for students

who have limited English proficiency.

a. Accommodations that negate the validity of a statewide, standardized assessment are not allowed during the administration of the assessment. However, instructional accommodations are allowed in the classroom if identified in a student's IEP. Students using instructional accommodations in the classroom that are not allowed on a statewide, standardized assessment may have assessment results waived if the IEP team determines that the assessment cannot accurately measure the student's abilities.

b. If a student is provided with instructional accommodations in the classroom that are not allowed as accommodations for statewide, standardized assessments, the district must inform the parent in writing and provide the parent with information regarding the impact on the student's ability to meet expected performance levels. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on a statewide, standardized assessment and acknowledge in writing that he or she understands the implications of such instructional accommodations.

c. If a student's IEP states that online administration of a statewide, standardized assessment will significantly impair the student's ability to perform, the assessment shall be administered in hard copy.

4. For students with significant cognitive disabilities, the Department of Education shall provide for implementation of the Florida Alternate Assessment to accurately measure the core curricular content established in the Next Generation Sunshine State Standards.

(d) Implementation schedule.—

1. The Commissioner of Education shall establish and publish on the department's website an implementation schedule to transition from the statewide, standardized Reading and Writing assessments to the ELA assessments and to the revised Mathematics assessments, including the Algebra I and Geometry EOC assessments. The schedule must take into consideration funding, sufficient field and baseline data, access to assessments, instructional alignment, and school district readiness to administer the assessments online.

2. The Department of Education shall publish minimum and recommended technology requirements that include specifications for hardware, software, networking, security, and broadband capacity to facilitate school district compliance with the requirement that assessments be administered online.

(e) Assessment scores and achievement levels.—

1. All statewide, standardized EOC assessments and Reading, Writing, and Science assessments shall use scaled scores and achievement lev-

els. Achievement levels shall range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment. For purposes of the statewide, standardized Writing assessment, student achievement shall be scored using a scale of 1 through 6.

2. The state board shall designate by rule a passing score for each statewide, standardized assessment.

3. If the commissioner seeks to revise a statewide, standardized assessment and the revisions require the state board to modify performance level scores, including the passing score, the commissioner shall provide a copy of the proposed scores and implementation plan to the President of the Senate and the Speaker of the House of Representatives at least 90 days before submission to the state board for review. Until the state board adopts the modifications by rule, the commissioner shall use calculations for scoring the assessment that adjust student scores on the revised assessment for statistical equivalence to student scores on the former assessment. The state board shall adopt by rule the passing score for the revised assessment that is statistically equivalent to the passing score on the discontinued assessment for a student who is required to attain a passing score on the discontinued assessment. The commissioner may, with approval of the state board, discontinue administration of the former assessment upon the graduation, based on normal student progression, of students participating in the final regular administration of the former assessment. If the commissioner revises a statewide, standardized assessment and the revisions require the state board to modify the passing score, only students taking the assessment for the first time after the rule is adopted are affected.

(f) Assessment schedules and reporting of results.—The Commissioner of Education shall establish schedules for the administration of assessments and the reporting of student assessment results. The commissioner shall consider the observance of religious and school holidays when developing the schedule. By August 1 of each year, the commissioner shall notify each school district in writing and publish on the department's website the assessment and reporting schedules for, at a minimum, the school year following the upcoming school year. The assessment and reporting schedules must provide the earliest possible reporting of student assessment results to the school districts. Assessment results for the statewide, standardized Reading assessments, or upon implementation the ELA assessments, and Mathematics assessments, including the EOC assessments in Algebra I and Geometry, must be made available no later than the week of June 8. The administration of the statewide, standardized Writing assessment and the Florida Alternate Assessment may be no earlier

than the week of March 1. School districts shall administer assessments in accordance with the schedule established by the commissioner.

(g) Prohibited activities.—A district school board shall prohibit each public school from suspending a regular program of curricula for purposes of administering practice assessments or engaging in other assessment-preparation activities for a statewide, standardized assessment. However, a district school board may authorize a public school to engage in the following assessment-preparation activities:

1. Distributing to students sample assessment books and answer keys published by the Department of Education.

2. Providing individualized instruction in assessment-taking strategies, without suspending the school's regular program of curricula, for a student who scores Level 1 or Level 2 on a prior administration of an assessment.

3. Providing individualized instruction in the content knowledge and skills assessed, without suspending the school's regular program of curricula, for a student who scores Level 1 or Level 2 on a prior administration of an assessment or a student who, through a diagnostic assessment administered by the school district, is identified as having a deficiency in the content knowledge and skills assessed.

4. Administering a practice assessment or engaging in other assessment-preparation activities that are determined necessary to familiarize students with the organization of the assessment, the format of assessment items, and the assessment directions or that are otherwise necessary for the valid and reliable administration of the assessment, as set forth in rules adopted by the State Board of Education with specific reference to this paragraph.

(h) Contracts for assessments.—The commissioner shall provide for the assessments to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner may enter into contracts for the continued administration of the assessments authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next fiscal year and may be paid from the appropriations of either or both fiscal years. The commissioner may negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law.

(4) SCHOOL ASSESSMENT PROGRAMS.—Each public school shall participate in the statewide, standardized assessment program in accordance with the assessment and reporting schedules and the minimum and recommended technology requirements published by the Commissioner of Education. District school boards shall not establish

school calendars that conflict with or jeopardize implementation of the assessment program. All district school boards shall report assessment results as required by the state management information system. Performance data shall be analyzed and reported to parents, the community, and the state. Student performance data shall be used by districts in developing objectives for the school improvement plan, evaluating instructional personnel and administrative personnel, assigning staff, allocating resources, acquiring instructional materials and technology, implementing performance-based budgeting, and promoting and assigning students to educational programs. The analysis of student performance data must also identify strengths and needs in the educational program and trends over time. The analysis must be used in conjunction with the budgetary planning processes developed pursuant to s. 1008.385 and the development of remediation programs.

(5) REQUIRED ANALYSES.—The commissioner shall provide, at a minimum, statewide, standardized assessment data analysis showing student achievement levels and learning gains by teacher, school, and school district.

(6) LOCAL ASSESSMENTS.—

- (a) Measurement of student performance in all subjects and grade levels, except those subjects and grade levels measured under the statewide, standardized assessment program described in this section, is the responsibility of the school districts.

- (b) Except for those subjects and grade levels measured under the statewide, standardized assessment program, beginning with the 2014-2015 school year, each school district shall administer for each course offered in the district a local assessment that measures student mastery of course content at the necessary level of rigor for the course. As adopted pursuant to State Board of Education rule, course content is set forth in the state standards required by s. 1003.41 and in the course description. Local assessments may include:

1. Statewide assessments.

2. Other standardized assessments, including nationally recognized standardized assessments.

3. Industry certification assessments.

4. District-developed or district-selected end-of-course assessments.

5. Teacher-selected or principal-selected assessments.

- (c) Each district school board must adopt policies for selection, development, administration, and scoring of local assessments and for collection of assessment results. Local assessments implemented under subparagraphs (b)4. and 5. may include a variety of assessment formats, including, but not limited to, project-based assessments, adjudicated performances, and practical application assignments. For all English Language Arts, mathematics, science, and social studies courses offered



in the district that are used to meet graduation requirements under s. 1002.3105, s. 1003.4281, or s. 1003.4282 and that are not otherwise assessed by statewide, standardized assessments, the district school board must select the assessments described in subparagraphs (b)1.-4.

(d) The Commissioner of Education shall identify methods to assist and support districts in the development and acquisition of assessments required under this subsection. Methods may include developing item banks, facilitating the sharing of developed tests among school districts, acquiring assessments from state and national curriculum-area organizations, and providing technical assistance in best professional practices of test development based upon state-adopted curriculum standards, administration, and security.

(e) Each school district shall establish schedules for the administration of any district-mandated assessment and approve the schedules as an agenda item at a district school board meeting. The school district shall publish the testing schedules on its website, clearly specifying the district-mandated assessments, and report the schedules to the Department of Education by October 1 of each year.

(7) **CONCORDANT SCORES.**—The Commissioner of Education must identify scores on the SAT and ACT that if achieved satisfy the graduation requirement that a student pass the grade 10 statewide, standardized Reading assessment or, upon implementation, the grade 10 ELA assessment. The commissioner may identify concordant scores on assessments other than the SAT and ACT. If the content or scoring procedures change for the grade 10 Reading assessment or, upon implementation, the grade 10 ELA assessment, new concordant scores must be determined. If new concordant scores are not timely adopted, the last-adopted concordant scores remain in effect until such time as new scores are adopted. The state board shall adopt concordant scores in rule.

(8) **COMPARATIVE SCORES FOR END-OF-COURSE (EOC) ASSESSMENT.**—The Commissioner of Education must identify one or more comparative scores for the Algebra I EOC assessment. If the content or scoring procedures change for the EOC assessment, new comparative scores must be determined. If new comparative scores are not timely adopted, the last-adopted comparative scores remain in effect until such time as new scores are adopted. The state board shall adopt comparative scores in rule.

(9) **CHILD WITH MEDICAL COMPLEXITY.**—In addition to the exemption option provided for under s. 1008.212, effective July 1, 2014, a child with a medical complexity may be exempt from participating in statewide, standardized assessments, including the Florida Alternate Assessment (FAA), pursuant to the provisions of this subsection.

(a) **Definition of child with medical complexity.**—A child with a medical complexity means a child who, based upon medical documentation from a physician licensed under chapter 458 or chapter 459 is medically fragile and needs intensive care due to a condition such as congenital or acquired multisystem disease; has a severe neurological or cognitive disorder with marked functional impairment; or is technology dependent for activities of daily living; and lacks the capacity to take or perform on an assessment.

(b) **Exemption options.**—If the parent consents in writing, and the IEP team determines that the child should not be assessed based upon medical documentation that the child meets the definition of a child with medical complexity, then the parent may choose one of the following three assessment exemption options.

1. One-year exemption approved by the district school superintendent. If the superintendent is provided written documentation of parental consent and appropriate medical documentation to support the IEP team's determination that the child is a child with medical complexity, then the superintendent may approve a one-year exemption from all statewide, standardized assessments, including the FAA. The superintendent shall report annually to the district school board and the Commissioner of Education the number of students who are identified as a child with medical complexity who are not participating in the assessment program.

2. One- to three-year exemption approved by the Commissioner of Education. If the commissioner is provided written documentation of parental consent; district school superintendent approval; the IEP team's determination that the child is a child with medical complexity based upon appropriate medical documentation; and all medical documentation, then the commissioner may exempt the child from all statewide, standardized assessments, including the FAA, for up to 3 years. The State Board of Education shall adopt rules to administer this subparagraph which must expedite the process by which exemptions are reviewed and approved and which demonstrate the utmost compassion and consideration for meeting the parent's and child's needs.

3. Permanent exemption approved by the Commissioner of Education. If the commissioner is provided written documentation of parental consent; district school superintendent approval of a permanent exemption; the IEP team's determination that the child is a child with medical complexity based upon appropriate medical documentation and that a permanent exemption is appropriate; and all medical documentation, then the commissioner may approve a permanent exemption from all statewide, standardized assessments, including the FAA. The State Board of Education shall adopt rules to administer this subparagraph which must

expedite the process by which exemptions are reviewed and approved and which demonstrate the utmost compassion and consideration for meeting the parent's and child's needs.

(c) Reporting requirements.—The Commissioner of Education shall annually report to the Legislature data, by district, related to the implementation of this subsection at the same time as results are reported regarding student performance on statewide, standardized assessments.

(10) REPORTS.—The Department of Education shall annually provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which shall include the following:

(a) Longitudinal performance of students in reading and mathematics.

(b) Longitudinal performance of students by grade level in reading and mathematics.

(c) Longitudinal performance regarding efforts to close the achievement gap.

(d) Other student performance data based on

national norm-referenced and criterion-referenced tests, if available; national assessments, such as the National Assessment of Educational Progress; and international assessments.

(e) The number of students who after 8th grade enroll in adult education rather than other secondary education.

(f) Any plan or intent to establish or implement new statewide, standardized assessments.

(11) RULES.—The State Board of Education shall adopt rules to implement this section.

History.—s. 368, ch. 2002-387; s. 7, ch. 2003-8; s. 2, ch. 2003-413; s. 49, ch. 2004-41; s. 3, ch. 2004-42; s. 5, ch. 2004-271; s. 40, ch. 2006-74; s. 174, ch. 2007-5; s. 7, ch. 2008-142; s. 18, ch. 2008-235; s. 99, ch. 2009-21; s. 8, ch. 2010-22; s. 4, ch. 2010-48; s. 3, ch. 2011-1; s. 20, ch. 2011-37; s. 8, ch. 2011-137; s. 25, ch. 2011-175; s. 22, ch. 2012-191; s. 5, ch. 2012-194; s. 33, ch. 2013-27; s. 55, ch. 2013-35; s. 4, ch. 2013-185; ss. 9, 12, ch. 2014-23; s. 71, ch. 2014-39.

<sup>1</sup>Note.—Section 7, ch. 2013-250, provides that “[t]he technology infrastructure, connectivity, and capacity of all public schools and school districts that administer statewide standardized assessments pursuant to s. 1008.22, Florida Statutes, including online assessments, shall be load tested and independently verified as appropriate, adequate, efficient, and sustainable.”

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#### **1008.25 Public school student progression; remedial instruction; reporting requirements.—**

(1) INTENT.—It is the intent of the Legislature that each student's progression from one grade to another be determined, in part, upon satisfactory performance in reading, writing, science, and mathematics; that district school board policies facilitate student achievement; that each student and his or her parent be informed of that student's academic progress; and that students have access to educational options that provide academically challenging coursework or accelerated instruction pursuant to s. 1002.3105.

(2) COMPREHENSIVE STUDENT PROGRESSION PLAN.—Each district school board shall establish a comprehensive plan for student progression which must:

(a) Provide standards for evaluating each student's performance, including how well he or she masters the performance standards approved by the State Board of Education.

(b) Provide specific levels of performance in reading, writing, science, and mathematics for each grade level, including the levels of performance on statewide assessments as defined by the commissioner, below which a student must receive remediation or be retained within an intensive program that is different from the previous year's program and that takes into account the student's learning style.

(c) Provide appropriate alternative placement for a student who has been retained 2 or more years.

(d)1. List the student eligibility and procedural requirements established by the school district for whole-grade promotion, midyear promotion, and subject-matter acceleration that would result

in a student attending a different school, pursuant to s. 1002.3105(2)(b).

2. Notify parents and students of the school district's process by which a parent may request student participation in whole-grade promotion, midyear promotion, or subject-matter acceleration that would result in a student attending a different school, pursuant to s. 1002.3105(4)(b)2.

(e)1. Advise parents and students that additional ACCEL options may be available at the student's school, pursuant to s. 1002.3105.

2. Advise parents and students to contact the principal at the student's school for information related to student eligibility requirements for whole-grade promotion, midyear promotion, and subject-matter acceleration when the promotion or acceleration occurs within the principal's school; virtual instruction in higher grade level subjects; and any other ACCEL options offered by the principal, pursuant to s. 1002.3105(2)(a).

3. Advise parents and students to contact the principal at the student's school for information related to the school's process by which a parent may request student participation in whole-grade promotion, midyear promotion, and subject-matter acceleration when the promotion or acceleration occurs within the principal's school; virtual instruction in higher grade level subjects; and any other ACCEL options offered by the principal, pursuant to s. 1002.3105(4)(b)1.

(f) Advise parents and students of the early graduation options under s. 1003.4281.

(g) List, or incorporate by reference, all dual enrollment courses contained within the dual enrollment articulation agreement established pursuant to s. 1007.271(21).

(h) Provide instructional sequences by which

students in kindergarten through high school may attain progressively higher levels of skill in the use of digital tools and applications. The instructional sequences must include participation in curricular and instructional options and the demonstration of competence of standards required pursuant to ss. 1003.41 and 1003.4203 through attainment of industry certifications and other means of demonstrating credit requirements identified under ss. 1002.3105, 1003.4203, and 1003.4282.

(3) **ALLOCATION OF RESOURCES.**—District school boards shall allocate remedial and supplemental instruction resources to students in the following priority:

(a) Students who are deficient in reading by the end of grade 3.

(b) Students who fail to meet performance levels required for promotion consistent with the district school board's plan for student progression required in paragraph (2)(b).

(4) **ASSESSMENT AND REMEDIATION.**—

(a) Each student must participate in the statewide, standardized assessment program required by s. 1008.22. Each student who does not meet specific levels of performance on the required assessments as determined by the district school board or who scores below Level 3 on the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment or on the statewide, standardized Mathematics assessments in grades 3 through 8 and the Algebra I EOC assessment must be provided with additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction as described in paragraph (b).

(b) The school in which the student is enrolled must develop, in consultation with the student's parent, and must implement a progress monitoring plan. A progress monitoring plan is intended to provide the school district and the school flexibility in meeting the academic needs of the student and to reduce paperwork. A student who is not meeting the school district or state requirements for proficiency in reading and mathematics shall be covered by one of the following plans to target instruction and identify ways to improve his or her academic achievement:

1. A federally required student plan such as an individual education plan;
2. A schoolwide system of progress monitoring for all students; or
3. An individualized progress monitoring plan.

The plan chosen must be designed to assist the student or the school in meeting state and district expectations for proficiency. If the student has been identified as having a deficiency in reading, the K-12 comprehensive reading plan required by s. 1011.62(9) shall include instructional and support

services to be provided to meet the desired levels of performance. District school boards may require low-performing students to attend remediation programs held before or after regular school hours or during the summer if transportation is provided.

(c) Upon subsequent evaluation, if the documented deficiency has not been remediated, the student may be retained. Each student who does not meet the minimum performance expectations defined by the Commissioner of Education for the statewide assessment tests in reading, writing, science, and mathematics must continue to be provided with remedial or supplemental instruction until the expectations are met or the student graduates from high school or is not subject to compulsory school attendance.

(5) **READING DEFICIENCY AND PARENTAL NOTIFICATION.**—

(a) Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten or grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency. The student's reading proficiency must be reassessed by locally determined assessments or through teacher observations at the beginning of the grade following the intensive reading instruction. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(b) If a student's reading deficiency is not remedied by the end of grade 3, as demonstrated by scoring Level 2 or higher on the statewide, standardized assessment required under s. 1008.22 for grade 3, the student must be retained.

(c) The parent of any student who exhibits a substantial deficiency in reading, as described in paragraph (a), must be notified in writing of the following:

1. That his or her child has been identified as having a substantial deficiency in reading.
2. A description of the current services that are provided to the child.
3. A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.
4. That if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless he or she is exempt from mandatory retention for good cause.
5. Strategies for parents to use in helping their child succeed in reading proficiency.
6. That the Florida Comprehensive Assessment Test (FCAT) is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the child to assist parents and the school district in knowing

when a child is reading at or above grade level and ready for grade promotion.

7. The district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for a student to demonstrate mastery of Florida's academic standards for English Language Arts. A parent of a student in grade 3 who is identified anytime during the year as being at risk of retention may request that the school immediately begin collecting evidence for a portfolio.

8. The district's specific criteria and policies for midyear promotion. Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level.

(6) ELIMINATION OF SOCIAL PROMOTION.—

(a) No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

(b) The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(b), for good cause. A student who is promoted to grade 4 with a good cause exemption shall be provided intensive reading instruction and intervention that include specialized diagnostic information and specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers with the implementation of reading strategies for students promoted with a good cause exemption which research has shown to be successful in improving reading among students who have reading difficulties. Good cause exemptions are limited to the following:

1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program.

2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of s. 1008.212.

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.

4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment.

5. Students with disabilities who take the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading or English Language Arts for more than 2 years but still demonstrates a deficiency and was previously retained in kindergarten, grade 1, grade

2, or grade 3.

6. Students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained more than once in grade 3.

7. Students who have received intensive remediation in reading or English Language Arts for 2 or more years but still demonstrate a deficiency and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

(c) Requests for good cause exemptions for students from the mandatory retention requirement as described in subparagraphs (b)3. and 4. shall be made consistent with the following:

1. Documentation shall be submitted from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's academic record. In order to minimize paperwork requirements, such documentation shall consist only of the existing progress monitoring plan, individual educational plan, if applicable, report card, or student portfolio.

2. The school principal shall review and discuss such recommendation with the teacher and make the determination as to whether the student should be promoted or retained. If the school principal determines that the student should be promoted, the school principal shall make such recommendation in writing to the district school superintendent. The district school superintendent shall accept or reject the school principal's recommendation in writing.

(7) SUCCESSFUL PROGRESSION FOR RETAINED THIRD GRADE STUDENTS.—

(a) Students retained under the provisions of paragraph (5)(b) must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district's summer reading camp, and appropriate teaching methodologies necessary to assist those students in becoming successful readers, able to read at or above grade level, and ready for promotion to the next grade.

(b) Each school district shall:

1. Provide third grade students who are retained under the provisions of paragraph (5)(b)

with intensive instructional services and supports to remediate the identified areas of reading deficiency, including participation in the school district's summer reading camp as required under paragraph (a) and a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction which includes phonemic awareness, phonics, fluency, vocabulary, and comprehension and other strategies prescribed by the school district, which may include, but are not limited to:

- a. Integration of science and social studies content within the 90-minute block.
- b. Small group instruction.
- c. Reduced teacher-student ratios.
- d. More frequent progress monitoring.
- e. Tutoring or mentoring.
- f. Transition classes containing 3rd and 4th grade students.
- g. Extended school day, week, or year.

2. Provide written notification to the parent of a student who is retained under the provisions of paragraph (5)(b) that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption as provided in paragraph (6)(b). The notification must comply with the provisions of s. 1002.20(15) and must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.

3. Implement a policy for the midyear promotion of a student retained under the provisions of paragraph (5)(b) who can demonstrate that he or she is a successful and independent reader and performing at or above grade level in reading or, upon implementation of English Language Arts assessments, performing at or above grade level in English Language Arts. Tools that school districts may use in reevaluating a student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education.

4. Provide students who are retained under the provisions of paragraph (5)(b) with a highly effective teacher as determined by the teacher's performance evaluation under s. 1012.34.

5. Establish at each school, when applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score Level 1 on the required statewide, standardized assessment identified in s. 1008.22. The focus of the Intensive Acceleration Class shall be to increase a child's reading and English Language Arts skill level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:

- a. Be provided to a student in grade 3 who scores Level 1 on the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment and who was retained in grade 3 the prior year because of scoring

Level 1.

- b. Have a reduced teacher-student ratio.

c. Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 Next Generation Sunshine State Standards in other core subject areas.

d. Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.

e. Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

(8) ANNUAL REPORT.—

(a) In addition to the requirements in paragraph (5)(b), each district school board must annually report to the parent of each student the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The district school board must report to the parent the student's results on each statewide assessment test. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent in writing in a format adopted by the district school board.

(b) Each district school board must annually publish on the district website and in the local newspaper the following information on the prior school year:

1. The provisions of this section relating to public school student progression and the district school board's policies and procedures on student retention and promotion.

2. By grade, the number and percentage of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the FCAT.

3. By grade, the number and percentage of all students retained in grades 3 through 10.

4. Information on the total number of students who were promoted for good cause, by each category of good cause as specified in paragraph (6)(b).

5. Any revisions to the district school board's policy on student retention and promotion from the prior year.

(9) RULEMAKING.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 for the administration of this section.

History.—s. 371, ch. 2002-387; s. 8, ch. 2003-118; s. 6, ch. 2004-42; s. 6, ch. 2004-255; s. 119, ch. 2006-1; s. 42, ch. 2006-74; s. 186, ch. 2008-4; s. 9, ch. 2010-22; s. 23, ch. 2012-191; s. 34, ch. 2013-27; s. 72, ch. 2014-39; s. 22, ch. 2014-184.

<sup>1</sup>Note.—The word "who" was substituted for the word "that" by the editors.



**1008.34 School grading system; school report cards; district grade.—**

(1) **DEFINITIONS.**—For purposes of the statewide, standardized assessment program and school grading system, the following terms are defined:

(a) “Achievement level,” “student achievement,” or “achievement” describes the level of content mastery a student has acquired in a particular subject as measured by a statewide, standardized assessment administered pursuant to s. 1008.22(3)(a) and (b). There are five achievement levels. Level 1 is the lowest achievement level, level 5 is the highest achievement level, and level 3 indicates satisfactory performance. A student passes an assessment if the student achieves a level 3, level 4, or level 5. For purposes of the Florida Alternate Assessment administered pursuant to s. 1008.22(3)(c), the state board shall provide, in rule, the number of achievement levels and identify the achievement levels that are considered passing.

(b) “Learning Gains,” “annual learning gains,” or “student learning gains” means the degree of student learning growth occurring from one school year to the next as required by state board rule for purposes of calculating school grades under this section.

(c) “Student performance,” “student academic performance,” or “academic performance” includes, but is not limited to, student learning growth, achievement levels, and Learning Gains on statewide, standardized assessments administered pursuant to s. 1008.22.

(2) **SCHOOL GRADES.**—Schools shall be graded using one of the following grades, defined according to rules of the State Board of Education:

- (a) “A,” schools making excellent progress.
- (b) “B,” schools making above average progress.
- (c) “C,” schools making satisfactory progress.
- (d) “D,” schools making less than satisfactory progress.
- (e) “F,” schools failing to make adequate progress.

Each school that earns a grade of “A” or improves at least two letter grades may have greater authority over the allocation of the school’s total budget generated from the FEFP, state categoricals, lottery funds, grants, and local funds.

(3) **DESIGNATION OF SCHOOL GRADES.**—

(a) Each school must assess at least 95 percent of its eligible students, except as provided under s. 1008.341 for alternative schools. Each school shall receive a school grade based on the school’s performance on the components listed in subparagraphs (b)1. and 2. If a school does not have at least 10 students with complete data for one or more of the components listed in subparagraphs (b)1. and 2., those components may not be

used in calculating the school’s grade.

1. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341. For charter schools that meet the definition of an alternative school pursuant to State Board of Education rule, the decision to receive a school grade is the decision of the charter school governing board.

2. A school that serves any combination of students in kindergarten through grade 3 that does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

3. If a collocated school does not earn a school grade or school improvement rating for the performance of its students, the student performance data of all schools operating at the same facility must be aggregated to develop a school grade that will be assigned to all schools at that location. A collocated school is a school that has its own unique master school identification number, provides for the education of each of its enrolled students, and operates at the same facility as another school that has its own unique master school identification number and provides for the education of each of its enrolled students.

(b)1. Beginning with the 2014-2015 school year, a school’s grade shall be based on the following components, each worth 100 points:

a. The percentage of eligible students passing statewide, standardized assessments in English Language Arts under s. 1008.22(3).

b. The percentage of eligible students passing statewide, standardized assessments in mathematics under s. 1008.22(3).

c. The percentage of eligible students passing statewide, standardized assessments in science under s. 1008.22(3).

d. The percentage of eligible students passing statewide, standardized assessments in social studies under s. 1008.22(3).

e. The percentage of eligible students who make Learning Gains in English Language Arts as measured by statewide, standardized assessments administered under s. 1008.22(3).

f. The percentage of eligible students who make Learning Gains in mathematics as measured by statewide, standardized assessments administered under s. 1008.22(3).

g. The percentage of eligible students in the lowest 25 percent in English Language Arts, as identified by prior year performance on statewide,

standardized assessments, who make Learning Gains as measured by statewide, standardized English Language Arts assessments administered under s. 1008.22(3).

h. The percentage of eligible students in the lowest 25 percent in mathematics, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized mathematics assessments administered under s. 1008.22(3).

i. For schools comprised of middle grades 6 through 8 or grades 7 and 8, the percentage of eligible students passing high school level statewide, standardized end-of-course assessments or attaining national industry certifications identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education.

In calculating Learning Gains for the components listed in sub-subparagraphs e.-h., the State Board of Education shall require that learning growth toward achievement levels 3, 4, and 5 is demonstrated by students who scored below each of those levels in the prior year. In calculating the components in sub-subparagraphs a.-d., the state board shall include the performance of English language learners only if they have been enrolled in a school in the United States for more than 2 years.

2. For a school comprised of grades 9, 10, 11, and 12, or grades 10, 11, and 12, the school's grade shall also be based on the following components, each worth 100 points:

a. The 4-year high school graduation rate of the school as defined by state board rule.

b. The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement examinations, International Baccalaureate examinations, dual enrollment courses, or Advanced International Certificate of Education examinations; or who, at any time during high school, earned national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the state board.

(c)1. The calculation of a school grade shall be based on the percentage of points earned from the components listed in subparagraph (b)1. and, if applicable, subparagraph (b)2. The State Board of Education shall adopt in rule a school grading scale that sets the percentage of points needed to earn each of the school grades listed in subsection (2). There shall be at least five percentage points separating the percentage thresholds needed to earn each of the school grades. The state board shall periodically review the school grading scale to determine if the scale should be adjusted upward to meet raised expectations and encourage increased student performance. If the state board adjusts the grading scale upward, the state board must inform the public and the school districts of the reasons for and degree of the adjustment and

its anticipated impact on school grades.

2. The calculation of school grades may not include any provision that would raise or lower the school's grade beyond the percentage of points earned. Extra weight may not be added in the calculation of any components.

(d) The performance of students attending alternative schools and students designated as hospital or homebound shall be factored into a school grade as follows:

1. The student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53 shall be included in the calculation of the home school's grade. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. As used in this subparagraph and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign statewide, standardized end-of-course assessment scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for one fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

2. Student performance data for students designated as hospital or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital or homebound program.

(4) SCHOOL REPORT CARD.—The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be provided by the school district to parents within the district. The report card shall include the school's grade; student performance in English Language Arts, mathematics, science, and social studies; information regarding school improvement;

an explanation of school performance as evaluated by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 6301 et seq.; and indicators of return on investment. Each school's report card shall be published annually by the department on its website based upon the most recent data available.

(5) **DISTRICT GRADE.**—Beginning with the 2014-2015 school year, a school district's grade shall include a district-level calculation of the components under paragraph (3)(b). This calculation methodology captures each eligible student in the district who may have transferred among schools within the district or is enrolled in a school that does not receive a grade. The department shall develop a district report card that includes the district grade; the information required under s. 1008.345(5); measures of the district's progress in closing the achievement gap between higher-performing student subgroups and lower-performing student subgroups; measures of the district's progress in demonstrating Learning Gains of its highest-performing students; measures of the district's success in improving student attendance; the district's grade-level promotion of students scoring achievement levels 1 and 2 on statewide, standardized English Language Arts and mathematics assessments; and measures of the district's performance in preparing students for the transition from elementary to middle school, middle to high school, and high school to postsecondary institutions and careers.

(6) **RULES.**—The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to administer this section.

(7) **TRANSITION.**—School grades and school improvement ratings pursuant to s. 1008.341 for the 2013-2014 school year shall be calculated based on statutes and rules in effect on June 30, 2014. To

assist in the transition to 2014-2015 school grades, calculated based on new statewide, standardized assessments administered pursuant to s. 1008.22, the 2014-2015 school grades shall serve as an informational baseline for schools to work toward improved performance in future years. Accordingly, notwithstanding any other provision of law:

(a) A school may not be required to select and implement a turnaround option pursuant to s. 1008.33 in the 2015-2016 school year based on the school's 2014-2015 grade or school improvement rating under s. 1008.341, as applicable.

(b)1. A school or approved provider under s. 1002.45 that receives the same or a lower school grade or school improvement rating for the 2014-2015 school year compared to the 2013-2014 school year is not subject to sanctions or penalties that would otherwise occur as a result of the 2014-2015 school grade or rating. A charter school system or a school district designated as high performing may not lose the designation based on the 2014-2015 school grades of any of the schools within the charter school system or school district, as applicable.

2. The Florida School Recognition Program established under s. 1008.36 shall continue to be implemented as otherwise provided in the General Appropriations Act.

(c) For purposes of determining grade 3 retention pursuant to s. 1008.25(5) and high school graduation pursuant to s. 1003.4282, student performance on the 2014-2015 statewide, standardized assessments shall be linked to 2013-2014 student performance expectations.

This subsection is repealed July 1, 2017.

History.—s. 378, ch. 2002-387; s. 46, ch. 2006-74; s. 21, ch. 2008-235; s. 100, ch. 2009-21; s. 3, ch. 2009-222; s. 11, ch. 2010-22; s. 5, ch. 2010-48; s. 55, ch. 2011-4; s. 29, ch. 2011-175; s. 8, ch. 2012-194; s. 36, ch. 2013-27; s. 23, ch. 2013-51; s. 1, ch. 2014-23.

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**1008.3415 School grade or school improvement rating for exceptional student education centers.—**

(1) Each exceptional student education center shall choose to receive a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to s. 1008.341.

(2) Notwithstanding s. 1008.34, the achievement levels and Learning Gains of a student with a disability who attends an exceptional student education center and has not been enrolled in or attended a public school other than an exceptional

student education center for grades K-12 within the school district shall not be included in the calculation of the home school's grade if the student is identified as an emergent student on the alternate assessment described in s. 1008.22(3)(c).

(3) The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to implement this section, including, but not limited to, defining exceptional student education centers.

History.—s. 8, ch. 2013-236; s. 8, ch. 2014-23; s. 75, ch. 2014-39.

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**1008.44 CAPE Industry Certification Funding List and CAPE Postsecondary Industry Certification Funding List.—**

(1) Pursuant to ss. 1003.4203 and 1003.492, the Department of Education shall, at least annually, identify, under rules adopted by the State Board of Education, and the Commissioner of Education may at any time recommend adding the following

certificates, certifications, and courses:

(a) CAPE industry certifications identified on the CAPE Industry Certification Funding List that must be applied in the distribution of funding to school districts pursuant to s. 1011.62(1)(o). The CAPE Industry Certification Funding List shall incorporate by reference the industry certifications on the career pathways list approved for the Florida

Gold Seal Vocational Scholars award. In addition, by August 1 of each year, the not-for-profit corporation established pursuant to s. 445.004 may annually select one industry certification, that does not articulate for college credit, for inclusion on the CAPE Industry Certification Funding List for a period of 3 years unless otherwise approved by the curriculum review committee pursuant to s. 1003.491. Such industry certifications, if earned by a student, shall be eligible for additional full-time equivalent membership, pursuant to s. 1011.62(1)(o)1.

(b) No more than 15 CAPE Digital Tool certificates limited to the areas of word processing; spreadsheets; sound, motion, and color presentations; digital arts; cybersecurity; and coding pursuant to s. 1003.4203(3) that do not articulate for college credit. Such certificates shall be annually identified on the CAPE Industry Certification Funding List and updated solely by the Chancellor of Career and Adult Education. The certificates shall be made available to students in elementary school and middle school grades and, if earned by a student, shall be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.

(c) CAPE ESE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications identified by the Chancellor of Career and Adult Education for students with disabilities pursuant to s. 1003.4203(2). Such certificates and certifications shall be identified on the CAPE Industry Certification Funding List and, if earned by a student, be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.

(d) CAPE Innovation Courses that combine academic and career performance outcomes with embedded industry certifications shall be annually approved by the Commissioner of Education and identified pursuant to s. 1003.4203(5)(a) and, if completed by a student, be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1.

(e) CAPE Acceleration Industry Certifications that articulate for 15 or more college credit hours pursuant to s. 1003.4203(5)(b) shall be annually approved by the Commissioner of Education and, if successfully completed, shall be eligible for additional full-time equivalent membership pursuant to s. 1011.62(1)(o)1. The approved industry certifications must be identified on the CAPE Industry Certification Funding List.

(2) The State Board of Education shall approve, at least annually, the CAPE Postsecondary Industry Certification Funding List pursuant to this section. The Commissioner of Education shall recommend, at least annually, the CAPE Postsecondary Industry Certification Funding List to the State Board of Education and may at any time recommend adding certifications. The Chancellor of the State University System, the Chancellor of

the Florida College System, and the Chancellor of Career and Adult Education shall work with local workforce boards, other postsecondary institutions, businesses, and industry to identify, create, and recommend to the Commissioner of Education industry certifications to be placed on the funding list. The list shall be used to determine annual performance funding distributions to school districts or Florida College System institutions as specified in ss. 1011.80 and 1011.81, respectively. The chancellors shall review results of the economic security report of employment and earning outcomes produced annually pursuant to s. 445.07 when determining recommended certifications for the list, as well as other reports and indicators available regarding certification needs.

(3) In the case of rigorous industry certifications that have embedded prerequisite minimum age, grade level, diploma or degree, postgraduation period of work experience of at least 12 months, or other reasonable requirements that may limit the extent to which a student can complete all requirements of the certification recognized by industry for employment purposes, the Commissioner of Education shall differentiate content, instructional, and assessment requirements that, when provided by a public institution and satisfactorily attained by a student, indicate accomplishment of requirements necessary for funding pursuant to ss. 1011.62, 1011.80, and 1011.81, notwithstanding attainment of prerequisite requirements necessary for recognition by industry for employment purposes. The differentiated requirements established by the Commissioner of Education shall be included on the CAPE Industry Certification Funding List at the time the certification is adopted.

(4)(a) CAPE industry certifications and CAPE Digital Tool certificates placed on the CAPE Industry Certification Funding List must include the version of the certifications and certificates available at the time of the adoption and, without further review and approval, include the subsequent updates to the certifications and certificates on the approved list, unless the certifications and certificates are specifically removed from the CAPE Industry Certification Funding List by the Commissioner of Education.

(b) The Commissioner of Education may limit CAPE industry certifications and CAPE Digital Tool certificates to students in certain grades based on formal recommendations by providers of CAPE industry certifications and CAPE Digital Tool certificates.

(c) The Articulation Coordinating Committee shall review statewide articulation agreement proposals for industry certifications and make recommendations to the State Board of Education for approval. After an industry certification is adopted by the State Board of Education for inclusion on

the Industry Certification Funding List, the Chancellor of Career and Adult Education, within 90 days, must provide to the Articulation Coordinating Committee recommendations for articulation of postsecondary credit for related degrees for the

approved certifications.

History.—s. 37, ch. 2013-27; s. 185, ch. 2014-17; s. 12, ch. 2014-184.





# Florida Statutes Pertaining to Special Programs

## Chapter 1009

### Educational Scholarships, Fees, and Financial Assistance

**1009.41 State financial aid; students with a disability.**—Notwithstanding the provisions of s. 1009.40(1)(b)1.b. regarding the number of credits earned per term, or other financial aid eligibility requirements related to the number of required credits earned per term, a student with a documented disability, as defined by the Americans with Disabilities Act, shall be eligible to be considered for state financial aid while attending an eligible postsecondary institution on a part-time basis. The

State Board of Education shall establish the necessary criteria for documentation of the student's disability, and the postsecondary institution shall make the determination as to whether or not the disability is such that part-time status is a necessary accommodation. For the purposes of this section, financial aid funds may be prorated based on the number of credit hours taken.

History.—s. 414, ch. 2002-387.

**1009.62 Grants for teachers for special training in exceptional student education.**—

(1) The Department of Education may make grants to teachers for special training in exceptional student education to meet professional requirements with respect thereto, and the department is responsible for the administration of such program.

(2) These grants are limited to teachers who:

- (a) Hold a full-time contract to teach in a district school system, a state-operated or state-supported program, or an agency or organization under contract with the Department of Education;
- (b) Hold a valid Florida educator's certificate

that does not reflect an exceptional-student-education coverage or endorsement that is appropriate for the teacher's assignment; and

(c) Satisfactorily complete the eligible courses.

(3) Grant amounts are to be determined on the basis of rates established by the Department of Education.

(4) The Department of Education shall administer this program under rules established by the State Board of Education.

History.—s. 441, ch. 2002-387.

**1009.74 The Theodore R. and Vivian M. Johnson Scholarship Program.**—

(1) There is established the Theodore R. and Vivian M. Johnson Scholarship Program to be administered by the Department of Education. The program shall provide scholarships to students attending a state university. The program shall be funded by contributions from the Theodore R. and Vivian M. Johnson Scholarship Foundation and from state matching funds to be allocated from the University Major Gifts Program.

(2) The amount to be allocated to the program shall be on the basis of a 50-percent match of funds from the University Major Gifts Program for each contribution received from the Theodore

R. and Vivian M. Johnson Scholarship Foundation. The funds allocated to the program, including the corpus and interest income, shall be expended for scholarships to benefit disabled students attending a state university.

(3) Students eligible for receipt of scholarship funds shall provide documentation of a disability and shall have a demonstrated financial need for the funds.

(4) Funding for the program shall be as provided in the General Appropriations Act.

History.—s. 456, ch. 2002-387; s. 122, ch. 2003-1; s. 6, ch. 2007-18; s. 29, ch. 2011-63.

**1009.893 Florida National Merit Scholar Incentive Program.**—

(1) As used in this section, the term:

- (a) "Department" means the Department of Education.
- (b) "Incentive program" means the Florida National Merit Scholar Incentive Program.

(2) The Florida National Merit Scholar Incentive Program is created to reward any Florida high school graduate who receives recognition as a National Merit Scholar or National Achievement Scholar and who initially enrolls in the 2014-2015 academic year or, later, in a baccalaureate degree

program at an eligible Florida public or independent postsecondary educational institution.

(3) The department shall administer the incentive program according to rules and procedures established by the State Board of Education. The department shall advertise the availability of the incentive program and notify students, teachers, parents, certified school counselors, and principals or other relevant school administrators of the criteria.

(4) In order to be eligible for an award under the incentive program, a student must:

- (a) Be a state resident as determined in s.

1009.40 and rules of the State Board of Education;

(b) Earn a standard Florida high school diploma or its equivalent pursuant to s. 1002.3105, s. 1003.4281, s. 1003.4282, or s. 1003.435 unless:

1. The student completes a home education program according to s. 1002.41; or

2. The student earns a high school diploma from a non-Florida school while living with a parent who is on military or public service assignment out of this state;

(c) Be accepted by and enroll in a Florida public or independent postsecondary educational institution that is regionally accredited; and

(d) Be enrolled full-time in a baccalaureate degree program at an eligible regionally accredited Florida public or independent postsecondary educational institution during the fall academic term following high school graduation.

(5)(a) An eligible student who is a National Merit Scholar or National Achievement Scholar and who attends a Florida public postsecondary educational institution shall receive an incentive award equal to the institutional cost of attendance minus the sum of the student's Florida Bright Futures Scholarship and National Merit Scholarship or National Achievement Scholarship.

(b) An eligible student who is a National Merit Scholar or National Achievement Scholar and who attends a Florida independent postsecondary educational institution shall receive an incentive award equal to the highest cost of attendance at a Florida public university, as reported by the Board of Governors of the State University System, minus the sum of the student's Florida Bright Futures Scholarship and National Merit Scholarship or National Achievement Scholarship.

(6)(a) To be eligible for a renewal award, a student must earn all credits for which he or she was enrolled and maintain a 3.0 or higher grade point average.

(b) A student may receive the incentive award for a maximum of 100 percent of the number

of credit hours required to complete a baccalaureate degree program, or until completion of a baccalaureate degree program, whichever comes first.

(7) The department shall annually issue awards from the incentive program. Before the registration period each semester, the department shall transmit payment for each award to the president or director of the postsecondary educational institution, or his or her representative, except that the department may withhold payment if the receiving institution fails to report or to make refunds to the department as required in this section.

(a) Each institution shall certify to the department the eligibility status of each student to receive a disbursement within 30 days before the end of its regular registration period, inclusive of a drop and add period. An institution is not required to reevaluate the student eligibility after the end of the drop and add period.

(b) An institution that receives funds from the incentive program must certify to the department the amount of funds disbursed to each student and remit to the department any undisbursed advances within 60 days after the end of regular registration.

(c) If funds appropriated are not adequate to provide the maximum allowable award to each eligible student, awards must be prorated using the same percentage reduction.

(8) Funds from any award within the incentive program may not be used to pay for remedial coursework or developmental education.

(9) A student may use an award for a summer term if funds are available and appropriated by the Legislature.

(10) The department shall allocate funds to the appropriate institutions and collect and maintain data regarding the incentive program within the student financial assistance database as specified in s. 1009.94.

(11) Section 1009.40(4) does not apply to awards issued under this section.

(12) The State Board of Education shall adopt rules necessary to administer this section.

History.—s. 26, ch. 2014-56.

# Florida Statutes Pertaining to Special Programs

## Chapter 1010

### Financial Matters

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#### **1010.20 Cost accounting and reporting for school districts.-**

(1) **COST ACCOUNTING.**-Each school district shall account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis in accordance with the manual developed by the Department of Education or as provided by law.

(2) **COST REPORTING.**-

(a) Each district shall report on a district-aggregate basis expenditures for inservice training pursuant to s. 1011.62(3) and for categorical programs as provided in s. 1011.62(6).

(b) Each district shall report on a school-by-school and on an aggregate district basis expenditures for each program funded in s. 1011.62(1)(c).

(c) The Commissioner of Education shall present to the Legislature, prior to the opening of the regular session each year, a district-by-district report of the expenditures reported pursuant to paragraphs (a) and (b). The report shall include total expenditures, a detailed analysis showing expenditures for each program, and such other data as may be useful for management of the education system. The Commissioner of Education shall also compute cost factors relative to the base student allocation for each funded program in s. 1011.62(1)(c).

(3) **PROGRAM EXPENDITURE REQUIREMENTS.**-

(a) Each district shall expend at least the

percent of the funds generated by each of the programs listed in this section on the aggregate total school costs for such programs:

1. Kindergarten and grades 1, 2, and 3, 90 percent.

2. Grades 4, 5, 6, 7, and 8, 80 percent.

3. Grades 9, 10, 11, and 12, 80 percent.

4. Programs for exceptional students, on an aggregate program basis, 90 percent.

5. Grades 7 through 12 career education programs, on an aggregate program basis, 80 percent.

6. Students-at-risk programs, on an aggregate program basis, 80 percent.

7. Juvenile justice programs, on an aggregate program basis, 90 percent.

8. Any new program established and funded under s. 1011.62(1)(c), that is not included under subparagraphs 1.-7., on an aggregate basis as appropriate, 80 percent.

(b) Funds for inservice training established in s. 1011.62(3) and for categorical programs established in s. 1011.62(6) shall be expended for the costs of the identified programs as provided by law and in accordance with the rules of the State Board of Education.

History.-s. 537, ch. 2002-387; s. 5, ch. 2004-333; s. 127, ch. 2004-357; s. 13, ch. 2006-27.

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#### **1010.215 Educational funding accountability.-**

(1) As used in this section, the term:

(a) “Administrative personnel” means those employees responsible for management functions such as the development of broad policies and implementation of those policies through the direction of personnel.

(b) “Educational support personnel” means district-based and school-based employees, including professional staff, technicians, secretaries, clerks, skilled workers, transportation employees, food service employees, and custodial and maintenance workers.

(c) “Instructional personnel” means classroom teachers, including substitute teachers.

(d) “Instructional specialists” means staff members responsible for providing student personnel services, librarians, and media specialists.

(e) “Instructional support personnel” means aides or assistants to instructional personnel or instructional specialists.

(f) “Managers” means instructional and non-

instructional employees with some managerial and supervisory functions, although primarily responsible for general operations. This category includes only district-based employees.

(2) Each district school board must classify each employee of the district school board into one of the following categories:

(a) Instructional personnel;

(b) Instructional specialists;

(c) Instructional support personnel;

(d) Administrative personnel;

(e) Managers; or

(f) Educational support personnel.

The district school board shall notify each employee of such classification.

(3)(a) The school public accountability report to parents must include the number of employees in each of the categories listed in subsection (2), by work location. However, this does not include the number of temporary substitute employees.

(b) Any teacher-to-student ratio or class size measure required by law or State Board of

Education rule must be computed by dividing the number of students in membership at the school by the number of full-time equivalent instructional personnel pursuant to paragraph (2)(a). Class size reports for exceptional student education shall be computed by dividing the number of exceptional students in membership by the number of full-time equivalent exceptional education classroom teachers who are classified as instructional personnel pursuant to paragraph (2)(a).

(4)(a) All expenditures within the general and special revenue funds for each district school board, including salaries, benefits, purchased services, energy services, materials and supplies, capital outlay, and miscellaneous expenditures, for the following purposes are classified as administrative expenditures:

1. District school board.
2. General administration.
3. School administration, excluding support expenditures.
4. Facilities acquisition and construction at the district level.
5. Fiscal services.
6. Central services at the district level.

(b) All expenditures within the general and special revenue funds for each district school board, including salaries, benefits, purchased services, energy services, materials and supplies, capital outlay, and miscellaneous expenditures, for the following purposes are classified as instructional expenditures:

1. Instruction.
2. Instructional support services, including student personnel services, instructional media services, instruction and curriculum development, and instructional staff training services.
3. School administration, including support expenditures.
4. Facilities acquisition and construction at the school level.
5. Food services.
6. Central services at the school level.
7. Student transportation services.
8. Operation of plant.
9. Maintenance of plant.

Definitions for the functions specified in this subsection are specified in State Board of Education rules.

(5) The annual school public accountability report required by ss. 1001.42(18) and 1008.345 must include a school financial report. The purpose of the school financial report is to better inform parents and the public concerning how funds were spent to operate the school during the prior fiscal year. Each school's financial report must follow a uniform, districtwide format that is easy to read and understand.

(a) Total revenue must be reported at the school, district, and state levels. The revenue

sources that must be addressed are state and local funds, other than lottery funds; lottery funds; federal funds; and private donations.

(b) Expenditures must be reported as the total expenditures per unweighted full-time equivalent student at the school level and the average expenditures per full-time equivalent student at the district and state levels in each of the following categories and subcategories:

1. Teachers, excluding substitute teachers, and education paraprofessionals who provide direct classroom instruction to students enrolled in programs classified by s. 1011.62 as:

- a. Basic programs;
- b. Students-at-risk programs;
- c. Special programs for exceptional students;
- d. Career education programs; and
- e. Adult programs.

2. Substitute teachers.

3. Other instructional personnel, including school-based instructional specialists and their assistants.

4. Contracted instructional services, including training for instructional staff and other contracted instructional services.

5. School administration, including school-based administrative personnel and school-based education support personnel.

6. The following materials, supplies, and operating capital outlay:

- a. Textbooks;
- b. Computer hardware and software;
- c. Other instructional materials;
- d. Other materials and supplies; and
- e. Library media materials.
7. Food services.
8. Other support services.
9. Operation and maintenance of the school plant.

(c) The school financial report must also identify the types of district-level expenditures that support the school's operations. The total amount of these district-level expenditures must be reported and expressed as total expenditures per full-time equivalent student.

(6) Based on the classifications in this section, each district school board shall annually submit a report by January 1, which identifies and summarizes administrative expenditures and instructional expenditures by fund for the preceding fiscal year. The report shall also state the number of unweighted full-time equivalent students enrolled in the school district. The total amount of administrative expenditures shall be divided by the number of unweighted full-time equivalent students to determine the administrative expenditures per student. This calculation is to be made separately for the general and the special revenue funds. In addition, the report shall reflect the number of employees in each category outlined in subsection (2) and the



percentage of employees in each category, excluding the number of temporary substitute employees. This report shall be submitted to the commissioner and shall be made available to the public. The

school public accountability report shall contain notification of the availability of this report.

History.—s. 539, ch. 2002-387; s. 63, ch. 2004-41; s. 23, ch. 2008-108.

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**1010.305 Audit of student enrollment.—**

(1) The Auditor General shall periodically examine the records of school districts, and other agencies as appropriate, to determine compliance with law and State Board of Education rules relating to the classification, assignment, and verification of full-time equivalent student enrollment and student transportation reported under the Florida Education Finance Program.

(2) If it is determined that the approved criteria and procedures for the placement of students and the conduct of programs have not been

followed by the district, appropriate adjustments in the full-time equivalent student count for that district must be made, and any excess funds must be deducted from subsequent allocations of state funds to that district. As provided for by rule, if errors in a specific program of a district recur in consecutive years due to lack of corrective action by the district, adjustments may be made based upon statistical estimates of error projected to the overall district program.

History.—s. 545, ch. 2002-387.



# Florida Statutes Pertaining to Special Programs

## Chapter 1011

### Planning and Budgeting

**1011.61 Definitions.**—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A “full-time equivalent student” in each program of the district is defined in terms of full-time students and part-time students as follows:

(a) A “full-time student” is one student on the membership roll of one school program or a combination of school programs listed in s. 1011.62(1)(c) for the school year or the equivalent for:

1. Instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program;

2. Instruction in a double-session school or a school utilizing an experimental school calendar approved by the Department of Education, comprising not less than the equivalent of 810 net hours in grades 4 through 12 or not less than 630 net hours in kindergarten through grade 3; or

3. Instruction comprising the appropriate number of net hours set forth in subparagraph 1. or subparagraph 2. for students who, within the past year, have moved with their parents for the purpose of engaging in the farm labor or fish industries, if a plan furnishing such an extended school day or week, or a combination thereof, has been approved by the commissioner. Such plan may be approved to accommodate the needs of migrant students only or may serve all students in schools having a high percentage of migrant students. The plan described in this subparagraph is optional for any school district and is not mandated by the state.

(b) A “part-time student” is a student on the active membership roll of a school program or combination of school programs listed in s. 1011.62(1)(c) who is less than a full-time student.

(c)1. A “full-time equivalent student” is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(i) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member,

divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student’s time not spent in a special program and shall be recorded as time in the appropriate basic program.

(ii) A prekindergarten student with a disability shall meet the requirements specified for kindergarten students.

(iii) A full-time equivalent student for students in kindergarten through grade 12 in a full-time virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of six full-credit completions or the prescribed level of content that counts toward promotion to the next grade in programs listed in s. 1011.62(1)(c). Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(iv) A full-time equivalent student for students in kindergarten through grade 12 in a part-time virtual instruction program under s. 1002.45 shall consist of six full-credit completions in programs listed in s. 1011.62(1)(c)1. and 3. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(v) A Florida Virtual School full-time equivalent student shall consist of six full-credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c)1. and 3. for students participating in kindergarten through grade 12 part-time virtual instruction and the programs listed in s. 1011.62(1)(c) for students participating in kindergarten through grade 12 full-time virtual

instruction. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(VI) Each successfully completed full-credit course earned through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

(VII) A full-time equivalent student for courses requiring passage of a statewide, standardized end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be defined and reported based on the number of instructional hours as provided in this subsection until the 2016-2017 fiscal year. Beginning in the 2016-2017 fiscal year, the FTE for the course shall be assessment-based and shall be equal to 1/6 FTE. The reported FTE shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(VIII) For students enrolled in a school district as a full-time student, the district may report 1/6 FTE for each student who passes a statewide, standardized end-of-course assessment without being enrolled in the corresponding course.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in:

- a. Juvenile justice education programs.
- b. The Florida Virtual School.
- c. Virtual instruction programs and virtual charter schools for the purpose of course completion and credit recovery pursuant to ss. 1002.45 and 1003.498. Course completion applies only to a student who is reported during the second or third membership surveys and who does not complete a virtual education course by the end of the regular school year. The course must be completed no later than the deadline for amending the final student enrollment survey for that year. Credit recovery applies only to a student who has unsuccessfully completed a traditional or virtual education course during the regular school year and must re-take the

course in order to be eligible to graduate with the student's class.

The full-time equivalent student enrollment calculated under this subsection is subject to the requirements in subsection (4).

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

(2) A "full-time equivalent student" is a student in grades 4 through 8 who is participating in a student-teacher adviser program conducted during homeroom period, who is a fraction of a full-time equivalent membership based on net hours in the program, with a maximum of 36 net hours in any fiscal year. Each district program shall be approved by the Department of Education.

(3) For the purpose of calculating the "current operation program," a student is in membership until he or she withdraws or until the close of the 11th consecutive school day of his or her absence, whichever comes first.

(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in s. 1003.21(1)(e) shall be the sum of the calculations in paragraphs (a), (b), and (c) as calculated by the department.

(a) The sum of the student's full-time equivalent student membership value for the school year or the equivalent derived from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and subsection (2). If the sum is greater than 1.0, the full-time equivalent student membership value for each program or course shall be reduced by an equal proportion so that the student's total full-time equivalent student membership value is equal to 1.0.

(b) If the result in paragraph (a) is less than 1.0 full-time equivalent student and the student has full-time equivalent student enrollment pursuant to sub-sub-subparagraph (1)(c)1.b.(VIII), calculate an amount that is the lesser of the value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of 1.0 less the value in paragraph (a).

(c) The full-time equivalent student enrollment value in sub-subparagraph (1)(c)2.a.

(5) The "Florida Education Finance Program" includes all programs and costs as provided in s. 1011.62.

(6) "Basic programs" include, but are not limited to, language arts, mathematics, art, music, physical education, science, and social studies.

History.—s. 654, ch. 2002-387; s. 20, ch. 2003-391; s. 6, ch. 2008-147; s. 2, ch. 2008-174; s. 28, ch. 2009-59; s. 34, ch. 2011-63; s. 9, ch. 2011-137; s. 15, ch. 2012-133; s. 27, ch. 2012-191; s. 10, ch. 2012-192; s. 38, ch. 2013-27; s. 60, ch. 2013-35; s. 18, ch. 2013-45; s. 187, ch. 2014-17.

**1011.62 Funds for operation of schools.**—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) **COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.**—The following procedure shall be followed in determining the annual allocation to each district for operation:

(a) **Determination of full-time equivalent membership.**—During each of several school weeks, including scheduled intersessions of a year-round school program during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the commissioner.

(b) **Determination of base student allocation.**—The base student allocation for the Florida Education Finance Program for kindergarten through grade 12 shall be determined annually by the Legislature and shall be that amount prescribed in the current year's General Appropriations Act.

(c) **Determination of programs.**—Cost factors based on desired relative cost differences between the following programs shall be established in the annual General Appropriations Act. The cost factor for secondary career education programs and basic programs grade 9 through 12 shall be equal. The Commissioner of Education shall specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need. For these students, the funding support level shall fund the exceptional students' education program, with the exception of extended school year services for students with disabilities.

1. Basic programs.—

- a. Kindergarten and grades 1, 2, and 3.
- b. Grades 4, 5, 6, 7, and 8.
- c. Grades 9, 10, 11, and 12.

2. Programs for exceptional students.—

- a. Support Level IV.
- b. Support Level V.
- 3. Secondary career education programs.
- 4. English for Speakers of Other Languages.

(d) **Annual allocation calculation.**—

1. The Department of Education is authorized and directed to review all district programs and enrollment projections and calculate a maximum total weighted full-time equivalent student enroll-

ment for each district for the K-12 FEFP.

2. Maximum enrollments calculated by the department shall be derived from enrollment estimates used by the Legislature to calculate the FEFP. If two or more districts enter into an agreement under the provisions of s. 1001.42(4)(d), after the final enrollment estimate is agreed upon, the amount of FTE specified in the agreement, not to exceed the estimate for the specific program as identified in paragraph (c), may be transferred from the participating districts to the district providing the program.

3. As part of its calculation of each district's maximum total weighted full-time equivalent student enrollment, the department shall establish separate enrollment ceilings for each of two program groups. Group 1 shall be composed of basic programs for grades K-3, grades 4-8, and grades 9-12. Group 2 shall be composed of students in exceptional student education programs support levels IV and V, English for Speakers of Other Languages programs, and all career programs in grades 9-12.

a. For any calculation of the FEFP, the enrollment ceiling for group 1 shall be calculated by multiplying the actual enrollment for each program in the program group by its appropriate program weight.

b. The weighted enrollment ceiling for group 2 programs shall be calculated by multiplying the enrollment for each program by the appropriate program weight as provided in the General Appropriations Act. The weighted enrollment ceiling for program group 2 shall be the sum of the weighted enrollment ceilings for each program in the program group, plus the increase in weighted full-time equivalent student membership from the prior year for clients of the Department of Children and Families and the Department of Juvenile Justice.

c. If, for any calculation of the FEFP, the weighted enrollment for program group 2, derived by multiplying actual enrollments by appropriate program weights, exceeds the enrollment ceiling for that group, the following procedure shall be followed to reduce the weighted enrollment for that group to equal the enrollment ceiling:

(I) The weighted enrollment ceiling for each program in the program group shall be subtracted from the weighted enrollment for that program derived from actual enrollments.

(II) If the difference calculated under sub-subparagraph (I) is greater than zero for any program, a reduction proportion shall be computed for the program by dividing the absolute value of the difference by the total amount by which the weighted enrollment for the program group exceeds the weighted enrollment ceiling for the program group.

(III) The reduction proportion calculated



under sub-sub-subparagraph (II) shall be multiplied by the total amount of the program group's enrollment over the ceiling as calculated under sub-sub-subparagraph (I).

(IV) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be subtracted from the program's weighted enrollment to produce a revised program weighted enrollment.

(V) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be divided by the appropriate program weight, and the result shall be added to the revised program weighted enrollment computed in sub-sub-subparagraph (IV).

(e) Funding model for exceptional student education programs.—

1.a. The funding model uses basic, at-risk, support levels IV and V for exceptional students and career Florida Education Finance Program cost factors, and a guaranteed allocation for exceptional student education programs. Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. The nature and intensity of the services indicated on the matrix shall be consistent with the services described in each exceptional student's individual educational plan. The Department of Education shall review and revise the descriptions of the services and supports included in the matrix of services for exceptional students and shall implement those revisions before the beginning of the 2012-2013 school year.

b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every 3 years by personnel who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school district must provide in order to ensure that exceptional students are provided a free, appropriate public education.

c. Students identified as exceptional, in accordance with chapter 6A-6, Florida Administrative Code, who do not have a matrix of services as specified in sub-subparagraph b. shall generate funds on the basis of full-time-equivalent student membership in the Florida Education Finance Program at the same funding level per student as provided for basic students. Additional funds for these exceptional students will be provided through the guaranteed allocation designated in subparagraph 2.

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in grades K through 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(l) and rules of the State Board of Education, which shall be allocated annually to each school district in the amount provided

in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall not be recalculated during the year. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in grades K through 8. Beginning with the 2007-2008 fiscal year, a district's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal year for gifted students in grades 9 through 12.

(f) Supplemental academic instruction; categorical fund.—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. For the 2014-2015 fiscal year, each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment shall use these funds, together with the funds provided in the district's research-based reading instruction allocation and other available funds, to provide an additional hour of instruction beyond the normal school day for each day of the entire school year for intensive reading instruction for the students in each of these schools. This additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective at teaching reading. Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 300 schools. After this requirement has been met, supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by

the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

(g) Education for speakers of other languages.—A school district or a full-time virtual instruction program is eligible to report full-time equivalent student membership in the ESOL program in the Florida Education Finance Program provided the following conditions are met:

1. The school district or the full-time virtual instruction program has a plan approved by the Department of Education.

2. The eligible student is identified and assessed as limited English proficient based on assessment criteria.

3.a. An eligible student may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to his or her enrollment in each additional year beyond the 3-year base period.

b. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the student's status.

4. An eligible student may be reported for funding in the ESOL program for membership in

ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy.

(h) Small, isolated high schools.—Districts which levy the maximum nonvoted discretionary millage, exclusive of millage for capital outlay purposes levied pursuant to s. 1011.71(2), may calculate full-time equivalent students for small, isolated high schools by multiplying the number of unweighted full-time equivalent students times 2.75; provided the school has attained a grade of "C" or better, pursuant to s. 1008.34, for the previous school year. For the purpose of this section, the term "small, isolated high school" means any high school which is located no less than 28 miles by the shortest route from another high school; which has been serving students primarily in basic studies provided by sub-subparagraphs (c)1.b. and c. and may include subparagraph (c)4.; and which has a membership of no more than 100 students, but no fewer than 28 students, in grades 9 through 12.

(i) Calculation of full-time equivalent membership with respect to dual enrollment instruction.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers

degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

(j) Instruction in exploratory career education.—Students in grades 7 through 12 who are enrolled for more than four semesters in exploratory career education may not be counted as full-time equivalent students for this instruction.

(k) Study hall.—A student who is enrolled in study hall may not be included in the calculation of full-time equivalent student membership for funding under this section.

(l) Calculation of additional full-time equivalent membership based on International Baccalaureate examination scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in an International Baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an International Baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each school district shall allocate 80 percent of the funds received from International Baccalaureate bonus FTE funding to the school program whose students generate the funds and to school programs that prepare prospective students to enroll in International Baccalaureate courses. Funds shall be expended solely for the payment of allowable costs associated with the International Baccalaureate program. Allowable costs include International Baccalaureate annual school fees; International Baccalaureate examination fees; salary, benefits, and bonuses for teachers and program coordinators for the International Baccalaureate program and teachers and coordinators who prepare prospective students for the International Baccalaureate program; supplemental books; instructional supplies; instructional equipment or instructional materials for International Baccalaureate courses; other activities that identify prospective International Baccalaureate students or prepare prospective students to enroll in International Baccalaureate courses; and training or professional development for International Baccalaureate teachers. School districts shall allocate the remaining 20 percent of the funds received from International Baccalaureate bonus FTE funding for programs that assist academically disadvantaged students to prepare for more rigorous courses. The school district shall

distribute to each classroom teacher who provided International Baccalaureate instruction:

1. A bonus in the amount of \$50 for each student taught by the International Baccalaureate teacher in each International Baccalaureate course who receives a score of 4 or higher on the International Baccalaureate examination.

2. An additional bonus of \$500 to each International Baccalaureate teacher in a school designated with a grade of “D” or “F” who has at least one student scoring 4 or higher on the International Baccalaureate examination, regardless of the number of classes taught or of the number of students scoring a 4 or higher on the International Baccalaureate examination.

Bonuses awarded to a teacher according to this paragraph may not exceed \$2,000 in any given school year. However, the maximum bonus shall be \$3,000 if at least 50 percent of the students enrolled in a teacher’s course earn a score of 4 or higher on the examination in a school designated with a grade of “A,” “B,” or “C”; or if at least 25 percent of the students enrolled in a teacher’s course earn a score of 4 or higher on the examination in a school designated with a grade of “D” or “F.” Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. For such courses, the teacher shall earn an additional bonus of \$50 for each student who has a qualifying score up to the maximum of \$3,000 in any given school year.

(m) Calculation of additional full-time equivalent membership based on Advanced International Certificate of Education examination scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in a full-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.08 full-time equivalent student membership shall be calculated for each student enrolled in a half-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an Advanced International Certificate of Education diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided Advanced International Certificate of Education instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced International Certificate of Education teacher in each full-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education

examination. A bonus in the amount of \$25 for each student taught by the Advanced International Certificate of Education teacher in each half-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination.

2. An additional bonus of \$500 to each Advanced International Certificate of Education teacher in a school designated with a grade of “D” or “F” who has at least one student scoring E or higher on the full-credit Advanced International Certificate of Education examination, regardless of the number of classes taught or of the number of students scoring an E or higher on the full-credit Advanced International Certificate of Education examination.

3. Additional bonuses of \$250 each to teachers of half-credit Advanced International Certificate of Education classes in a school designated with a grade of “D” or “F” which has at least one student scoring an E or higher on the half-credit Advanced International Certificate of Education examination in that class. The maximum additional bonus for a teacher awarded in accordance with this subparagraph shall not exceed \$500 in any given school year. Teachers receiving an award under subparagraph 2. are not eligible for a bonus under this subparagraph.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(n) Calculation of additional full-time equivalent membership based on college board advanced placement scores of students.—A value of 0.16 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of “D” or “F” who has at least one student scoring 3 or higher on the College Board

Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year. However, the maximum bonus shall be \$3,000 if at least 50 percent of the students enrolled in a teacher’s course earn a score of 3 or higher on the examination in a school with a grade of “A,” “B,” or “C” or if at least 25 percent of the students enrolled in a teacher’s course earn a score of 3 or higher on the examination in a school with a grade of “D” or “F.” Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. For such courses, the teacher shall earn an additional bonus of \$50 for each student who has a qualifying score up to the maximum of \$3,000 in any given school year.

(o) Calculation of additional full-time equivalent membership based on successful completion of a career-themed course pursuant to ss. 1003.491, 1003.492, and 1003.493, or courses with embedded CAPE industry certifications or CAPE Digital Tool certificates, and issuance of industry certification identified on the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education or CAPE Digital Tool certificates pursuant to s. 1003.4203.—

1.a. A value of 0.025 full-time equivalent student membership shall be calculated for CAPE Digital Tool certificates earned by students in elementary and middle school grades.

b. A value of 0.1 or 0.2 full-time equivalent student membership shall be calculated for each student who completes a course as defined in s. 1003.493(1)(b) or courses with embedded CAPE industry certifications and who is issued an industry certification identified annually on the CAPE Industry Certification Funding List approved under rules adopted by the State Board of Education. A value of 0.2 full-time equivalent membership shall be calculated for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education. For CAPE industry certifications that do not articulate for college credit, the Department of Education shall assign a full-time equivalent value of 0.1 for each certification. Middle grades students who earn additional FTE membership for a CAPE Digital Tool certificate pursuant to sub-subparagraph a. may not use the previously funded examination to satisfy the requirements for earning an industry certification under this sub-subparagraph. Additional FTE membership for an elementary or middle grades student shall not exceed 0.1 for certificates or certifications earned within the same fiscal year. The State Board of Education shall include the assigned



values on the CAPE Industry Certification Funding List under rules adopted by the state board. Such value shall be added to the total full-time equivalent student membership for grades 6 through 12 in the subsequent year for courses that were not provided through dual enrollment. CAPE industry certifications earned through dual enrollment must be reported and funded pursuant to s. 1011.80.

c. A value of 0.3 full-time equivalent student membership shall be calculated for student completion of the courses and the embedded certifications identified on the CAPE Industry Certification Funding List and approved by the commissioner pursuant to ss. 1003.4203(5)(a) and 1008.44.

d. A value of 0.5 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 15 to 29 college credit hours, and 1.0 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours pursuant to CAPE Acceleration Industry Certifications approved by the commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.

2. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification, in accordance with this paragraph, to the program that generated the funds. This allocation may not be used to supplant funds provided for basic operation of the program.

3. For CAPE industry certifications earned in the 2013-2014 school year and in subsequent years, the school district shall distribute to each classroom teacher who provided direct instruction toward the attainment of a CAPE industry certification that qualified for additional full-time equivalent membership under subparagraph 1.:

a. A bonus in the amount of \$25 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.

b. A bonus in the amount of \$50 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2, 0.3, 0.5, and 1.0.

Bonuses awarded pursuant to this paragraph shall be provided to teachers who are employed by the district in the year in which the additional FTE membership calculation is included in the calculation. Bonuses shall be calculated based upon the associated weight of a CAPE industry certification on the CAPE Industry Certification Funding List for the year in which the certification is earned by the student. Any bonus awarded to a teacher under this paragraph may not exceed \$2,000 in any given school year and is in addition to any regular wage or other bonus the teacher received or is scheduled

to receive.

(p) Calculation of additional full-time equivalent membership based upon early high school graduation.—Each school district may receive funding for each student who graduates early pursuant to s. 1003.4281. A district may earn 0.25 additional FTE for a student who graduates one semester in advance of the student's cohort and 0.5 additional FTE for a student who graduates 1 year or more in advance of the student's cohort. If the student was enrolled in the district as a full-time high school student for at least 2 years, the district shall report the additional FTE for payment in the subsequent fiscal year. If the student was enrolled in the district for less than 2 years, the district of enrollment shall report the additional FTE and shall transfer a proportionate share of the funds earned for early graduation to the district in which the student was previously enrolled. Additional FTE included in the 2014-2015 Florida Education Finance Program for early graduation shall be reported and funded pursuant to this paragraph.

(q) Year-round-school programs.—The Commissioner of Education is authorized to adjust student eligibility definitions, funding criteria, and reporting requirements of statutes and rules in order that year-round-school programs may achieve equivalent application of funding requirements with non-year-round-school programs.

(r) Extended-school-year program.—It is the intent of the Legislature that students be provided additional instruction by extending the school year to 210 days or more. Districts may apply to the Commissioner of Education for funds to be used in planning and implementing an extended-school-year program.

(s) Determination of the basic amount for current operation.—The basic amount for current operation to be included in the Florida Education Finance Program for kindergarten through grade 12 for each district shall be the product of the following:

1. The full-time equivalent student membership in each program, multiplied by
2. The cost factor for each program, adjusted for the maximum as provided by paragraph (c), multiplied by
3. The base student allocation.

(t) Computation for funding through the Florida Education Finance Program.—The State Board of Education may adopt rules establishing programs, industry certifications, and courses for which the student may earn credit toward high school graduation.

(2) DETERMINATION OF DISTRICT COST DIFFERENTIALS.—The Commissioner of Education shall annually compute for each district the current year's district cost differential. The district cost differential shall be calculated by adding each district's price level index as published in the Florida



Price Level Index for the most recent 3 years and dividing the resulting sum by 3. The result for each district shall be multiplied by 0.008 and to the resulting product shall be added 0.200; the sum thus obtained shall be the cost differential for that district for that year.

(3) **INSERVICE EDUCATIONAL PERSONNEL TRAINING EXPENDITURE.**—Of the amount computed in subsections (1) and (2), a percentage of the base student allocation per full-time equivalent student or other funds shall be expended for educational training programs as determined by the district school board as provided in s. 1012.98.

(4) **COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.**—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. The value certified shall be the taxable value for school purposes for that year, and no further adjustments shall be made, except those made pursuant to paragraphs (c) and (d), or an assessment roll change required by final judicial decisions as specified in paragraph (14)(b). Not later than July 19, the Commissioner of Education shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, when applied to 96 percent of the estimated state total taxable value for school purposes, would generate the prescribed aggregate required local effort for that year for all districts. The Commissioner of Education shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.

b. The General Appropriations Act shall direct the computation of the statewide adjusted aggregate amount for required local effort for all school districts collectively from ad valorem taxes to ensure that no school district's revenue from required local effort millage will produce more than 90 percent of the district's total Florida Education Finance Program calculation as calculated and adopted by the Legislature, and the adjustment of the required local effort millage rate of each district that produces more than 90 percent of its total Florida Education Finance Program entitle-

ment to a level that will produce only 90 percent of its total Florida Education Finance Program entitlement in the July calculation.

2. On the same date as the certification in sub-subparagraph 1.a., the Department of Revenue shall certify to the Commissioner of Education for each district:

a. Each year for which the property appraiser has certified the taxable value pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a.

b. For each year identified in sub-subparagraph a., the taxable value certified by the appraiser pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a. This is the certification that reflects all final administrative actions of the value adjustment board.

(b) Equalization of required local effort.—

1. The Department of Revenue shall include with its certifications provided pursuant to paragraph (a) its most recent determination of the assessment level of the prior year's assessment roll for each county and for the state as a whole.

2. The Commissioner of Education shall adjust the required local effort millage of each district for the current year, computed pursuant to paragraph (a), as follows:

a. The equalization factor for the prior year's assessment roll of each district shall be multiplied by 96 percent of the taxable value for school purposes shown on that roll and by the prior year's required local-effort millage, exclusive of any equalization adjustment made pursuant to this paragraph. The dollar amount so computed shall be the additional required local effort for equalization for the current year.

b. Such equalization factor shall be computed as the quotient of the prior year's assessment level of the state as a whole divided by the prior year's assessment level of the county, from which quotient shall be subtracted 1.

c. The dollar amount of additional required local effort for equalization for each district shall be converted to a millage rate, based on 96 percent of the current year's taxable value for that district, and added to the required local effort millage determined pursuant to paragraph (a).

3. Notwithstanding the limitations imposed pursuant to s. 1011.71(1), the total required local-effort millage, including additional required local effort for equalization, shall be an amount not to exceed 10 minus the maximum millage allowed as nonvoted discretionary millage, exclusive of millage authorized pursuant to s. 1011.71(2). Nothing herein shall be construed to allow a millage in excess of that authorized in s. 9, Art. VII of the State Constitution.

4. For the purposes of this chapter, the term "assessment level" means the value-weighted

mean assessment ratio for the county or state as a whole, as determined pursuant to s. 195.096, or as subsequently adjusted. However, for those parcels studied pursuant to s. 195.096(3)(a)1. which are receiving the assessment limitation set forth in s. 193.155, and for which the assessed value is less than the just value, the department shall use the assessed value in the numerator and the denominator of such assessment ratio. In the event a court has adjudicated that the department failed to establish an accurate estimate of an assessment level of a county and recomputation resulting in an accurate estimate based upon the evidence before the court was not possible, that county shall be presumed to have an assessment level equal to that of the state as a whole.

5. If, in the prior year, taxes were levied against an interim assessment roll pursuant to s. 193.1145, the assessment level and prior year's nonexempt assessed valuation used for the purposes of this paragraph shall be those of the interim assessment roll.

(c) Exclusion.—

1. In those instances in which:

a. There is litigation either attacking the authority of the property appraiser to include certain property on the tax assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll, and

b. The assessed value of the property in contest involves more than 6 percent of the total nonexempt assessment roll, the plaintiff shall provide to the district school board of the county in which the property is located and to the Department of Education a certified copy of the petition and receipt for the good faith payment at the time they are filed with the court.

2. For purposes of computing the required local effort for each district affected by such petition, the Department of Education shall exclude from the district's total nonexempt assessment roll the assessed value of the property in contest and shall add the amount of the good faith payment to the district's required local effort.

(d) Recomputation.—Following final adjudication of any litigation on the basis of which an adjustment in taxable value was made pursuant to paragraph (c), the department shall recompute the required local effort for each district for each year affected by such adjustments, utilizing taxable values approved by the court, and shall adjust subsequent allocations to such districts accordingly.

<sup>1</sup>(e) Prior period funding adjustment millage.—

1. There shall be an additional millage to be known as the Prior Period Funding Adjustment Millage levied by a school district if the prior period unrealized required local effort funds are greater than zero. The Commissioner of Education shall calculate the amount of the prior period

unrealized required local effort funds as specified in subparagraph 2. and the millage required to generate that amount as specified in this subparagraph. The Prior Period Funding Adjustment Millage shall be the quotient of the prior period unrealized required local effort funds divided by the current year taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a. This levy shall be in addition to the required local effort millage certified pursuant to this subsection. Such millage shall not affect the calculation of the current year's required local effort, and the funds generated by such levy shall not be included in the district's Florida Education Finance Program allocation for that fiscal year. For purposes of the millage to be included on the Notice of Proposed Taxes, the Commissioner of Education shall adjust the required local effort millage computed pursuant to paragraph (a) as adjusted by paragraph (b) for the current year for any district that levies a Prior Period Funding Adjustment Millage to include all Prior Period Funding Adjustment Millage. For the purpose of this paragraph, there shall be a Prior Period Funding Adjustment Millage levied for each year certified by the Department of Revenue pursuant to sub-subparagraph (a)2.a. since the previous year certification and for which the calculation in sub-subparagraph 2.b. is greater than zero.

2.a. As used in this subparagraph, the term:

(I) "Prior year" means a year certified under sub-subparagraph (a)2.a.

(II) "Preliminary taxable value" means:

(A) If the prior year is the 2009-2010 fiscal year or later, the taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a.

(B) If the prior year is the 2008-2009 fiscal year or earlier, the taxable value certified pursuant to the final calculation as specified in former paragraph (b) as that paragraph existed in the prior year.

(III) "Final taxable value" means the district's taxable value as certified by the property appraiser pursuant to s. 193.122(2) or (3), if applicable. This is the certification that reflects all final administrative actions of the value adjustment board.

b. For purposes of this subsection and with respect to each year certified pursuant to sub-subparagraph (a)2.a., if the district's prior year preliminary taxable value is greater than the district's prior year final taxable value, the prior period unrealized required local effort funds are the difference between the district's prior year preliminary taxable value and the district's prior year final taxable value, multiplied by the prior year district required local effort millage. If the district's prior year preliminary taxable value is less than the district's prior year final taxable value, the prior period unrealized required local effort funds are zero.

c. For the 2014-2015 fiscal year only, if a district's prior period unrealized required local effort funds and prior period district required local effort millage cannot be determined because such district's final taxable value has not yet been certified pursuant to s. 193.122(2) or (3), for the 2014 tax levy, the Prior Period Funding Adjustment Millage for such fiscal year shall be levied in 2014 in an amount equal to 75 percent of such district's most recent unrealized required local effort for which a Prior Period Funding Adjustment Millage was determined as provided in this section. Upon certification of the final taxable value for the 2013 tax roll in accordance with s. 193.122(2) or (3), the Prior Period Funding Adjustment Millage levied in 2015 shall be adjusted to include any shortfall or surplus in the prior period unrealized required local effort funds that would have been levied in 2014, had the district's final taxable value been certified pursuant to s. 193.122(2) or (3) for the 2014 tax levy. This provision shall be implemented by a district only if the millage calculated pursuant to this paragraph when added to the millage levied by the district for all purposes for the 2014-2015 fiscal year is less than or equal to the total millage levied for the 2013-2014 fiscal year. This sub-subparagraph expires July 1, 2015.

(5) **DISCRETIONARY MILLAGE COMPRESSION SUPPLEMENT.**—The Legislature shall prescribe in the General Appropriations Act, pursuant to s. 1011.71(1), the rate of nonvoted current operating discretionary millage that shall be used to calculate a discretionary millage compression supplement. If the prescribed millage generates an amount of funds per unweighted FTE for the district that is less than the state average, the district shall receive an amount per FTE that, when added to the funds per FTE generated by the designated levy, shall equal the state average.

(6) **CATEGORICAL FUNDS.**—

(a) In addition to the basic amount for current operations for the FEP as determined in subsection (1), the Legislature may appropriate categorical funding for specified programs, activities, or purposes.

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.
2. Funds for safe schools.
3. Funds for supplemental academic instruction if the required additional hour of instruction beyond the normal school day for each day of the

entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (1)(f).

4. Funds for research-based reading instruction if the required additional hour of instruction beyond the normal school day for each day of the entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (9)(a).

5. Funds for instructional materials if all instructional material purchases necessary to provide updated materials that are aligned with applicable state standards and course descriptions and that meet statutory requirements of content and learning have been completed for that fiscal year, but no sooner than March 1. Funds available after March 1 may be used to purchase hardware for student instruction.

(c) Each district school board shall include in its annual financial report to the Department of Education the amount of funds the school board transferred from each of the categorical funds identified in this subsection and the specific academic classroom instruction for which the transferred funds were expended. The Department of Education shall provide instructions and specify the format to be used in submitting this required information as a part of the district annual financial report. The Department of Education shall submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were expended.

(d) If a district school board transfers funds from its research-based reading instruction allocation, the board must also submit to the Department of Education an amendment describing the changes that the district is making to its reading plan approved pursuant to paragraph (9)(d).

(7) **DETERMINATION OF SPARSITY SUPPLEMENT.**—

(a) Annually, in an amount to be determined by the Legislature through the General Appropriations Act, there shall be added to the basic amount for current operation of the FEP qualified districts a sparsity supplement which shall be computed as follows:

$$\text{Sparsity Factor} = \frac{1101.8918}{\text{district index}} - 2700 + \text{district sparsity}$$

except that districts with a sparsity index of 1,000 or less shall be computed as having a sparsity index of 1,000, and districts having a sparsity index of 7,308 and above shall be computed as having a sparsity factor of zero. A qualified district's full-

time equivalent student membership shall equal or be less than that prescribed annually by the Legislature in the appropriations act. The amount prescribed annually by the Legislature shall be no less than 17,000, but no more than 24,000.

(b) The district sparsity index shall be computed by dividing the total number of full-time equivalent students in all programs in the district by the number of senior high school centers in the district, not in excess of three, which centers are approved as permanent centers by a survey made by the Department of Education.

(c) If the sparsity supplement calculated in paragraphs (a) and (b) for an eligible district is less than \$100 per full-time equivalent student, the district's supplement shall be increased to \$100 per FTE or to the minimum amount per FTE designated in the General Appropriations Act.

(d) Each district's allocation of sparsity supplement funds shall be adjusted in the following manner:

1. A maximum discretionary levy per FTE value for each district shall be calculated by dividing the value of each district's maximum discretionary levy by its FTE student count.

2. A state average discretionary levy value per FTE shall be calculated by dividing the total maximum discretionary levy value for all districts by the state total FTE student count.

3. A total potential funds per FTE for each district shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee funds, for each district by its FTE student count.

4. A state average total potential funds per FTE shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds and the minimum guarantee funds, for all districts by the state total FTE student count.

5. For districts that have a levy value per FTE as calculated in subparagraph 1. higher than the state average calculated in subparagraph 2., a sparsity wealth adjustment shall be calculated as the product of the difference between the state average levy value per FTE calculated in subparagraph 2. and the district's levy value per FTE calculated in subparagraph 1. and the district's FTE student count and -1. However, no district shall have a sparsity wealth adjustment that, when applied to the total potential funds calculated in subparagraph 3., would cause the district's total potential funds per FTE to be less than the state average calculated in subparagraph 4.

6. Each district's sparsity supplement allocation shall be calculated by adding the amount calculated as specified in paragraphs (a) and (b) and the wealth adjustment amount calculated in this paragraph.

(8) DECLINE IN FULL-TIME EQUIVALENT STU-

DENTS.—In those districts where there is a decline between prior year and current year unweighted FTE students, a percentage of the decline in the unweighted FTE students as determined by the Legislature shall be multiplied by the prior year calculated FEFP per unweighted FTE student and shall be added to the allocation for that district. For this purpose, the calculated FEFP shall be computed by multiplying the weighted FTE students by the base student allocation and then by the district cost differential. If a district transfers a program to another institution not under the authority of the district's school board, including a charter technical career center, the decline is to be multiplied by a factor of 0.15. However, if the funds provided for the Florida Education Finance Program in the General Appropriations Act for any fiscal year are reduced by a subsequent appropriation for that fiscal year, the percent of the decline in the unweighted FTE students to be funded shall be determined by the Legislature and designated in the subsequent appropriation.

(9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

(a) The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12. For the 2014-2015 fiscal year, in each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment, priority shall be given to providing an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year for the students in each school. Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 300 schools. The intensive reading instruction delivered in this additional hour and for other students shall include: research-based reading instruction that has been proven to accelerate progress of students exhibiting a reading deficiency; differentiated instruction based on student assessment data to meet students' specific reading needs; explicit and systematic reading development in phonemic awareness, phonics, fluency, vocabulary, and comprehension, with more extensive opportunities for guided practice, error correction, and feedback; and the integration of social studies, science, and mathematics-text reading, text discussion, and writing in response to reading. For the 2012-2013 and 2013-2014 fiscal years, a school district may not hire more reading coaches than were hired during the 2011-2012 fiscal year unless all students in kindergarten through grade 5 who demonstrate a reading deficiency, as determined by district and state assessments, including students scoring Level 1 or Level 2 on the statewide, standardized reading

assessment or, upon implementation, the English Language Arts assessment, are provided an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year.

(b) Funds for comprehensive, research-based reading instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district shall receive the same minimum amount as specified in the General Appropriations Act, and any remaining funds shall be distributed to eligible school districts based on each school district's proportionate share of K-12 base funding.

(c) Funds allocated under this subsection must be used to provide a system of comprehensive reading instruction to students enrolled in the K-12 programs, which may include the following:

1. The provision of an additional hour per day of intensive reading instruction to students in the 300 lowest-performing elementary schools by teachers and reading specialists who are effective in teaching reading.

2. Kindergarten through grade 5 reading intervention teachers to provide intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency.

3. The provision of highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content areas based on student need.

4. Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text.

5. The provision of summer reading camps for all students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized reading assessment or, upon implementation, the English Language Arts assessment.

6. The provision of supplemental instructional materials that are grounded in scientifically based reading research.

7. The provision of intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized assessment.

(d) Annually, by a date determined by the Department of Education but before May 1, school districts shall submit a K-12 comprehensive reading plan for the specific use of the research-based reading instruction allocation in the format pre-

scribed by the department for review and approval by the Just Read, Florida! Office created pursuant to s. 1001.215. The plan annually submitted by school districts shall be deemed approved unless the department rejects the plan on or before June 1. If a school district and the Just Read, Florida! Office cannot reach agreement on the contents of the plan, the school district may appeal to the State Board of Education for resolution. School districts shall be allowed reasonable flexibility in designing their plans and shall be encouraged to offer reading intervention through innovative methods, including career academies. The plan format shall be developed with input from school district personnel, including teachers and principals, and shall allow courses in core, career, and alternative programs that deliver intensive reading remediation through integrated curricula, provided that the teacher is deemed highly qualified to teach reading or working toward that status. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. A school district that spends 100 percent of this allocation on its approved plan shall be deemed to have been in compliance with the plan. The department may withhold funds upon a determination that reading instruction allocation funds are not being used to implement the approved plan. The department shall monitor and track the implementation of each district plan, including conducting site visits and collecting specific data on expenditures and reading improvement results. By February 1 of each year, the department shall report its findings to the Legislature.

(10) CALCULATION OF SUPPLEMENTAL ALLOCATION FOR JUVENILE JUSTICE EDUCATION PROGRAMS.—The total K-12 weighted full-time equivalent student membership in juvenile justice education programs in each school district shall be multiplied by the amount of the state average class-size-reduction factor multiplied by the district's cost differential. An amount equal to the sum of this calculation shall be allocated in the FEFP to each school district to supplement other sources of funding for students in juvenile justice education programs.

(11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may annually provide in the Florida Education Finance Program a virtual education contribution. The amount of the virtual education contribution shall be the difference between the amount per FTE established in the General Appropriations Act for virtual education and the amount per FTE for each district and the Florida Virtual School, which may be calculated by taking the sum of the base FEFP allocation, the discretionary local effort, the state-funded discretionary contribution, the discretionary millage compression supplement, the research-based reading instruction allocation,



and the instructional materials allocation, and then dividing by the total unweighted FTE. This difference shall be multiplied by the virtual education unweighted FTE for programs and options identified in s. 1002.455(3) and the Florida Virtual School and its franchises to equal the virtual education contribution and shall be included as a separate allocation in the funding formula.

(12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—

(a) The Florida digital classrooms allocation is created to support school district and school efforts and strategies to improve outcomes related to student performance by integrating technology in classroom teaching and learning. The outcomes must be measurable and may also be unique to the needs of individual schools and school districts within the general parameters established by the Department of Education.

(b) Each district school board shall adopt a district digital classrooms plan that meets the unique needs of students, schools, and personnel and submit the plan for approval to the Department of Education. In addition, each district school board must, at a minimum, seek input from the district's instructional, curriculum, and information technology staff to develop the district digital classrooms plan. The district's plan must be within the general parameters established in the Florida digital classrooms plan pursuant to s. 1001.20. In addition, if the district participates in federal technology initiatives and grant programs, the district digital classrooms plan must include a plan for meeting requirements of such initiatives and grant programs. Funds allocated under this subsection must be used to support implementation of district digital classrooms plans. By October 1, 2014, and by March 1 of each year thereafter, on a date determined by the department, each district school board shall submit to the department, in a format prescribed by the department, a digital classrooms plan. At a minimum, such plan must include, and be annually updated to reflect, the following:

1. Measurable student performance outcomes. Outcomes related to student performance, including outcomes for students with disabilities, must be tied to the efforts and strategies to improve outcomes related to student performance by integrating technology in classroom teaching and learning. Results of the outcomes shall be reported at least annually for the current school year and subsequent 3 years and be accompanied by an independent evaluation and validation of the reported results.

2. Digital learning and technology infrastructure purchases and operational activities. Such purchases and activities must be tied to the measurable outcomes under subparagraph 1., including, but not limited to, connectivity, broadband access, wireless capacity, Internet speed, and

data security, all of which must meet or exceed minimum requirements and protocols established by the department. For each year that the district uses funds for infrastructure, a third-party, independent evaluation of the district's technology inventory and infrastructure needs must accompany the district's plan.

3. Professional development purchases and operational activities. Such purchases and activities must be tied to the measurable outcomes under subparagraph 1., including, but not limited to, using technology in the classroom and improving digital literacy and competency.

4. Digital tool purchases and operational activities. Such purchases and activities must be tied to the measurable outcomes under subparagraph 1., including, but not limited to, competency-based credentials that measure and demonstrate digital competency and certifications; third-party assessments that demonstrate acquired knowledge and use of digital applications; and devices that meet or exceed minimum requirements and protocols established by the department.

5. Online assessment-related purchases and operational activities. Such purchases and activities must be tied to the measurable outcomes under subparagraph 1., including, but not limited to, expanding the capacity to administer assessments and compatibility with minimum assessment protocols and requirements established by the department.

(c) The Legislature shall annually provide in the General Appropriations Act the FEFP allocation for implementation of the Florida digital classrooms plan to be calculated in an amount up to 1 percent of the base student allocation multiplied by the total K-12 full-time equivalent student enrollment included in the FEFP calculations for the legislative appropriation or as provided in the General Appropriations Act. Each school district shall be provided a minimum of \$250,000, with the remaining balance of the allocation to be distributed based on each district's proportion of the total K-12 full-time equivalent student enrollment. Distribution of funds for the Florida digital classrooms allocation shall begin following submittal of each district's digital classrooms plan, which must include formal verification of the superintendent's approval of the digital classrooms plan of each charter school in the district, and approval of the plan by the department. Prior to the distribution of the Florida digital classrooms allocation funds, each district school superintendent shall certify to the Commissioner of Education that the district school board has approved a comprehensive district digital classrooms plan that supports the fidelity of implementation of the Florida digital classrooms allocation. District allocations shall be recalculated during the fiscal year consistent with the periodic recalculation of the FEFP. School districts shall provide a proportionate share of the digital classrooms

allocation to each charter school in the district, as required for categorical programs in s. 1002.33(17) (b). A school district may use a competitive process to distribute funds for the Florida digital classrooms allocation to the schools within the school district.

(d) To facilitate the implementation of the district digital classrooms plans and charter school digital classrooms plans, the commissioner shall support statewide, coordinated partnerships and efforts of this state's education practitioners in the field, including, but not limited to, superintendents, principals, and teachers, to identify and share best practices, corrective actions, and other identified needs.

(e) Beginning in the 2015-2016 fiscal year and each year thereafter, each district school board shall report to the department its use of funds provided through the Florida digital classrooms allocation and student performance outcomes in accordance with the district's digital classrooms plan. The department may contract with an independent third-party entity to conduct an annual independent verification of the district's use of Florida digital classrooms allocation funds in accordance with the district's digital classrooms plan. In the event an independent third-party verification is not conducted, the Auditor General shall, during scheduled operational audits of the school districts, verify compliance of the use of Florida digital classrooms allocation funds in accordance with the district's digital classrooms plan. No later than October 1 of each year, beginning in the 2015-2016 fiscal year, the commissioner shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a summary of each district's use of funds, student performance outcomes, and progress toward meeting statutory requirements and timelines.

(f) Each school district shall provide teachers, administrators, students, and parents with access to:

1. Instructional materials in digital or electronic format, as defined in s. 1006.29.
2. Digital materials, including those digital materials that enable students to earn certificates and industry certifications pursuant to ss. 1003.4203 and 1008.44.
3. Teaching and learning tools and resources, including the ability for teachers and administrators to manage, assess, and monitor student performance data.

(13) **QUALITY ASSURANCE GUARANTEE.**—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 unweighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per unweighted FTE student which shall include the adjusted FTE dollars as provided in subsection (14), quality guarantee funds, and actual nonvoted discretionary

local effort from taxes. From the base funding per unweighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection (14) and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per unweighted FTE to prior year funds per unweighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per unweighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

(14) **TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.**—The total annual state allocation to each district for current operation for the FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(a) If the funds appropriated for current operation of the FEFP are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.
2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.
3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation. However, no calculation subsequent to the appropriation shall result in negative state funds for any district.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change required by final judicial decision, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. Beginning with the 2011-2012 fiscal year, if a special program cost factor is less than the basic program cost factor, an audit adjustment may not result in the reclassification

of the special program FTE to the basic program FTE. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

(c) The amount thus obtained shall represent the net annual state allocation to each district; however, notwithstanding any of the provisions herein, each district shall be guaranteed a minimum level of funding in the amount and manner prescribed in the General Appropriations Act.

(15) COMPUTATION OF PRIOR YEAR DISTRICT REQUIRED LOCAL EFFORT.—Calculations required

in this section shall be based on 95 percent of the taxable value for school purposes for fiscal years prior to the 2010-2011 fiscal year.

History.—s. 655, ch. 2002-387; s. 124, ch. 2003-1; s. 15, ch. 2003-391; s. 68, ch. 2004-41; s. 8, ch. 2004-271; s. 10, ch. 2004-349; s. 129, ch. 2004-357; s. 10, ch. 2005-56; s. 10, ch. 2005-196; s. 6, ch. 2006-27; s. 50, ch. 2006-74; s. 177, ch. 2007-5; s. 3, ch. 2007-59; s. 5, ch. 2007-216; ss. 2, 3, ch. 2007-328; ss. 8, 9, ch. 2008-142; s. 7, ch. 2009-40; ss. 29, 41, ch. 2009-59; s. 180, ch. 2010-102; s. 25, ch. 2010-154; s. 171, ch. 2011-5; s. 17, ch. 2011-37; s. 33, ch. 2011-55; s. 33, ch. 2011-175; s. 16, ch. 2012-133; s. 28, ch. 2012-191; s. 11, ch. 2012-192; s. 39, ch. 2013-27; s. 19, ch. 2013-45; s. 8, ch. 2013-237; s. 379, ch. 2014-19; s. 87, ch. 2014-39; s. 5, ch. 2014-53; s. 27, ch. 2014-56; s. 13, ch. 2014-184.

\*Note.—Section 5, ch. 2014-53, amended paragraph (4)(e) “[i]n order to implement Specific Appropriations 9 and 96 of the 2014-2015 General Appropriations Act.”

**1011.622 Adjustments for students without a Florida student identification number.**—The Florida Education Finance Program funding calculations, including the calculations authorized in ss. 1011.62, 1011.67, 1011.68, and 1011.685, shall include funding for a student only when all of the student’s records are reported to the Department

of Education under a Florida student identification number. The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

History.—s. 20, ch. 2013-45; s. 4, ch. 2014-41.

**1011.68 Funds for student transportation.**—The annual allocation to each district for transportation to public school programs, including charter schools as provided in s. 1002.33(17)(b), of students in membership in kindergarten through grade 12 and in migrant and exceptional student programs below kindergarten shall be determined as follows:

(1) Subject to the rules of the State Board of Education, each district shall determine the membership of students who are transported:

(a) By reason of living 2 miles or more from school.

(b) By reason of being students with disabilities or enrolled in a teenage parent program, regardless of distance to school.

(c) By reason of being in a state prekindergarten program, regardless of distance from school.

(d) By reason of being career, dual enrollment, or students with disabilities transported from one school center to another to participate in an instructional program or service; or students with disabilities, transported from one designation to another in the state, provided one designation is a school center and provided the student’s individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A “school center” is defined as a public school center, Florida College System institution, state university, or other facility rented, leased, or owned and operated by the school district or another public agency. A “dual enrollment student” is defined as a public school student in membership in both a public secondary school program and a Florida College System institution or a state university program under a written agreement to partially fulfill ss. 1003.435 and 1007.23 and earning full-time equivalent

membership under s. 1011.62(1)(i).

(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 1006.23. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 1003.54, regardless of distance from school.

(2) The allocation for each district shall be calculated annually in accordance with the following formula:

$T = B + EX$ . The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by an average per student cost for transportation as determined by the Legislature. The adjusted disabled student

membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent.

(3) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsection (2). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the base transportation allocation and the base transportation allocation for disabled students, the Department of Education shall prorate the available funds on a percentage basis. If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2), and the remaining balance shall be added to the base transportation allocation.

(4) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as

prescribed in s. 1006.27(1).

(5) Funds allocated or apportioned for the payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student must be equal to the allocation per student riding a school bus.

(6) Notwithstanding other provisions of this section, in no case shall any student or students be counted for transportation funding more than once per day. This provision includes counting students for funding pursuant to trips in school buses, passenger cars, or boats or general purpose transportation.

History.—s. 660, ch. 2002-387; s. 3, ch. 2003-393; s. 130, ch. 2004-357; s. 30, ch. 2009-59; s. 29, ch. 2010-154; s. 172, ch. 2011-5.

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#### **1011.685 Class size reduction; operating categorical fund.—**

(1) There is created an operating categorical fund for implementing the class size reduction provisions of s. 1, Art. IX of the State Constitution. These funds shall be allocated to each school district in the amount prescribed by the Legislature in the General Appropriations Act.

(2) Class size reduction operating categorical

funds shall be used by school districts to reduce class size as required in s. 1003.03. A school district that meets the maximum class size requirement may use the funds for any lawful operating expenditure; however, priority shall be given to increasing salaries of classroom teachers.

History.—s. 3, ch. 2003-391; s. 26, ch. 2004-295; s. 53, ch. 2006-74; s. 31, ch. 2009-59; s. 35, ch. 2011-55.

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#### **1011.70 Medicaid certified school funding maximization.—**

(1) Each school district, subject to the provisions of ss. 409.9071 and 409.908(21) and this section, is authorized to certify funds provided for a category of required Medicaid services termed “school-based services,” which are reimbursable under the federal Medicaid program. Such services shall include, but not be limited to, physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, Early Periodic Screening, Diagnosis, and Treatment (EPSDT) administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such services, for the purpose of receiving federal Medicaid financial participation. Certified school funding shall not be available for the following services:

(a) Family planning.

(b) Immunizations.

(c) Prenatal care.

(2) The Agency for Health Care Administration shall monitor compliance of each participating school district with the Medicaid provider agreements. In addition, the Agency for Health Care Administration shall develop standardized recordkeeping procedures for the school districts that meet Medicaid requirements for audit purposes.

(3) Each school district’s continued participation in certifying funds to be reimbursed for Medicaid expenditures is contingent upon the district providing to the department an annual accounting of how the federal Medicaid reimbursements are utilized.

(4) Funds generated pursuant to this section may be used for autism therapy services allowed by

federal law.

(5) Lab schools, as authorized under s. 1002.32, shall be authorized to participate in the Medicaid certified school match program on the same basis as school districts subject to the

provisions of subsections (1)-(4) and ss. 409.9071 and 409.908(21).

History.—s. 662, ch. 2002-387; s. 69, ch. 2004-41.

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**1011.75 Gifted education exemplary program grants.—**

(1) This section shall be known and may be cited as the “Challenge Grant Program for the Gifted.”

(2) There is hereby created a grant program for education for the gifted which shall be administered by the Commissioner of Education in cooperation and consultation with appropriate organizations and associations concerned with education for the gifted and pursuant to rules adopted by the State Board of Education. The program may be implemented in any public school.

(3) Pursuant to policies and rules to be adopted by the State Board of Education, each district school board, two or more district school boards in cooperation, or a public school principal through the district school board may submit to the commissioner a proposed program designed to effectuate an exemplary program for education for the gifted in a school, district, or group of districts. Consideration for funding shall be given to proposed programs of district school boards that are developed with the cooperation of a Florida College System institution or public or private college or university for the purpose of providing advanced accelerated instruction for public school students pursuant to s. 1003.435. In order to be approved, a program proposal must include:

(a) Clearly stated goals and objectives expressed, to the maximum extent possible, in

measurable terms.

(b) Information concerning the number of students, teachers, and other personnel to be involved in the program.

(c) The estimated cost of the program and the number of years for which it is to be funded.

(d) Provisions for evaluation of the program and for its integration into the general curriculum and financial program of the school district or districts at the end of the funded period.

(e) Such other information and provisions as the commissioner requires.

(4) The commissioner shall review and approve, disapprove, or resubmit for modification all proposed programs for education for the gifted submitted. For those programs approved, the commissioner shall authorize distribution of funds equal to the cost of the program from funds appropriated to the Department of Education for exemplary program grants for education for the gifted as provided for by this section. These funds shall be in addition to any funds for education for the gifted provided pursuant to s. 1011.62.

History.—s. 668, ch. 2002-387; s. 173, ch. 2011-5.

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**1011.84 Procedure for determining state financial support and annual apportionment of state funds to each Florida College System institution district.—**The procedure for determining state financial support and the annual apportionment to each Florida College System institution district authorized to operate a Florida College System institution under the provisions of s. 1001.61 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE FLORIDA COLLEGE SYSTEM PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(a) The Department of Education shall determine annually from an analysis of operating costs, prepared in the manner prescribed by rules of the State Board of Education, the costs per full-time equivalent student served in courses and fields of study offered in Florida College System institutions. This information and current college operating budgets shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature.

(b) The allocation of funds for Florida College

System institutions shall be based on advanced and professional disciplines, developmental education, and other programs for adults funded pursuant to s. 1011.80.

(c) The category of lifelong learning is for students enrolled pursuant to s. 1004.93. A student shall also be reported as a lifelong learning student for his or her enrollment in any course that he or she has previously taken, unless it is a credit course in which the student earned a grade of D or F.

(d) If an adult student has been determined to be a disabled student eligible for an approved educational program for disabled adults provided pursuant to s. 1004.93 and rules of the State Board of Education and is enrolled in a class with curriculum frameworks developed for the program, state funding for that student shall be provided at a level double that of a student enrolled in a special adult general education program provided by a Florida College System institution.

(e) All state inmate education provided by Florida College System institutions shall be reported by program, FTE expenditure, and revenue



source. These enrollments, expenditures, and revenues shall be reported and projected separately. Instruction of state inmates shall not be included in the full-time equivalent student enrollment for funding through the Florida College System Program Fund.

(f) When a public educational institution has been fully funded by an external agency for direct instructional costs of any course or program, the FTE generated shall not be reported for state funding.

(g) The State Board of Education shall adopt rules to implement s. 9(d)(8)f., Art. XII of the State Constitution. These rules shall provide for the use of the funds available under s. 9(d)(8)f., Art. XII by an individual Florida College System institution for operating expense in any fiscal year during which the State Board of Education has determined that all major capital outlay needs have been met. Highest priority for the use of these funds for purposes other than financing approved capital outlay projects shall be for the proper maintenance and repair of existing facilities for projects approved by the State Board of Education. However, in any fiscal year in which funds from this source are authorized for operating expense other than approved maintenance and repair projects, the allocation of Florida College System institution program funds shall be reduced by an amount equal to the sum used for such operating expense for that Florida College System institution that year, and that amount shall not be released or allocated among the other Florida College System institutions that year.

(2) DETERMINING THE AMOUNT TO BE INCLUDED FOR CAPITAL OUTLAY AND DEBT SERVICE.—The amount included for capital outlay and debt service shall be as determined and provided in s. 18, Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII of the 1968 revised State Constitution and State Board of Education rules.

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(a) By December 15 of each year, the Department of Education shall estimate the annual enrollment of each Florida College System institution for the current fiscal year and for the 3 subsequent fiscal years. These estimates shall be based upon prior years' enrollments, upon the initial fall term enrollments for the current fiscal year for each college, and upon each college's estimated current enrollment and demographic changes in the respective Florida College System institution districts. Upper-division enrollment shall be estimated separately from lower-division enrollment.

(b) The apportionment to each Florida College System institution from the Florida College System Program Fund shall be determined annually in the General Appropriations Act. In determining each college's apportionment, the Legislature shall consider the following components:

1. Base budget, which includes the state appropriation to the Florida College System Program Fund in the current year plus the related student tuition and out-of-state fees assigned in the current General Appropriations Act.

2. The cost-to-continue allocation, which consists of incremental changes to the base budget, including salaries, price levels, and other related costs allocated through a funding model approved by the Legislature which may recognize differing economic factors arising from the individual educational approaches of the various Florida College System institutions, including, but not limited to:

a. Direct Instructional Funding, including class size, faculty productivity factors, average faculty salary, ratio of full-time to part-time faculty, costs of programs, and enrollment factors.

b. Academic Support, including small colleges factor, multicampus factor, and enrollment factor.

c. Student Services Support, including headcount of students as well as FTE count and enrollment factors.

d. Library Support, including volume and other materials/audiovisual requirements.

e. Special Projects.

f. Operations and Maintenance of Plant, including square footage and utilization factors.

g. District Cost Differential.

3. Students enrolled in a recreation and leisure program and students enrolled in a lifelong learning program who may not be counted as full-time equivalent enrollments for purposes of enrollment workload adjustments.

4. Operating costs of new facilities adjustments, which shall be provided, from funds available, for each new facility that is owned by the college and is recommended in accordance with s. 1013.31.

5. New and improved program enhancements, which shall be determined by the Legislature.

Student fees in the base budget plus student fee revenues generated by increases in fee rates shall be deducted from the sum of the components determined in subparagraphs 1.-5. The amount remaining shall be the net annual state apportionment to each college.

(c) No Florida College System institution shall commit funds for the employment of personnel or resources in excess of those required to continue the same level of support for either the previously approved enrollment or the revised enrollment, whichever is lower.

(d) The apportionment to each Florida College System institution district for capital outlay and debt service shall be the amount determined in accordance with subsection (2). This amount, less any amount determined as necessary for administrative expense by the State Board of Education and any amount necessary for debt service

on bonds issued by the State Board of Education, shall be transmitted to the Florida College System institution board of trustees to be expended in a manner prescribed by rules of the State Board of Education.

(e) If at any time the unencumbered balance in the general fund of the Florida College System institution board of trustees approved operating budget goes below 5 percent, the president shall provide written notification to the State Board of Education.

(f) Expenditures for apprenticeship programs shall be reported separately.

(g) Expenditures for upper-division enrollment in a Florida College System institution that grants baccalaureate degrees shall be reported separately from expenditures for lower-division enrollment, in accordance with law and State Board

of Education rule.

(4) EXPENDITURE OF ALLOCATED FUNDS.—Any funds allocated herein to any Florida College System institution shall be expended only for the purpose of supporting that Florida College System institution.

(5) REPORT OF DEVELOPMENTAL EDUCATION.—Each Florida College System institution board of trustees shall report, as a separate item in its annual cost accounting system, the volume and cost of developmental education options provided to help students attain the communication and computation skills that are essential for college-level work pursuant to s. 1008.30.

History.—s. 679, ch. 2002-387; s. 13, ch. 2004-271; s. 27, ch. 2010-155; s. 179, ch. 2011-5; s. 37, ch. 2013-51.

# Florida Statutes Pertaining to Special Programs

## Chapter 1012

### Personnel

**1012.01 Definitions.**—As used in this chapter, the following terms have the following meanings:

(1) **SCHOOL OFFICERS.**—The officers of the state system of public K-12 and Florida College System institution education shall be the Commissioner of Education and the members of the State Board of Education; for each district school system, the officers shall be the district school superintendent and members of the district school board; and for each Florida College System institution, the officers shall be the Florida College System institution president and members of the Florida College System institution board of trustees.

(2) **INSTRUCTIONAL PERSONNEL.**—“Instructional personnel” means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:

(a) **Classroom teachers.**—Classroom teachers are staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers.

(b) **Student personnel services.**—Student personnel services include staff members responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions. Included in this classification are certified school counselors, social workers, career specialists, and school psychologists.

(c) **Librarians/media specialists.**—Librarians/media specialists are staff members responsible for providing school library media services. These employees are responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems; facilitating access to information resources beyond the school; working with teachers to make resources available in the instructional programs; assisting teachers and students in media productions; and instructing students in the location and use of information resources.

(d) **Other instructional staff.**—Other instructional staff are staff members who are part of the instructional staff but are not classified in one of

the categories specified in paragraphs (a)-(c). Included in this classification are primary specialists, learning resource specialists, instructional trainers, adjunct educators certified pursuant to s. 1012.57, and similar positions.

(e) **Education paraprofessionals.**—Education paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding the instructional process. Included in this classification are classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals.

(3) **ADMINISTRATIVE PERSONNEL.**—“Administrative personnel” includes K-12 personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level, responsible personnel who have been assigned the responsibilities of systemwide or schoolwide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of K-12 administrative personnel are as follows:

(a) **District-based instructional administrators.**—Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the instructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major instructional areas, such as curriculum, federal programs such as Title I, specialized instructional program areas such as exceptional student education, career education, and similar areas.

(b) **District-based noninstructional administrators.**—Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the noninstructional program. Such personnel often report directly to the district school superintendent and supervise other administrative

employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance.

(c) School administrators.—Included in this classification are:

1. School principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors.

2. Assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

(4) YEAR OF SERVICE.—The minimum time which may be recognized in administering K-12 education, not including retirement, as a year of service by a school employee shall be full-time actual service; and, beginning July 1963, such service shall also include sick leave and holidays for which compensation was received but shall exclude all other types of leave and holidays for a total of more than one-half of the number of days required for the normal contractual period of service for the position held, which shall be 196 days or longer, or the minimum required for the district to participate in the Florida Education Finance Program in the year service was rendered, or the equivalent for service performed on a daily or hourly basis; provided, further, that absence from duty after the date of beginning service shall be covered by leave duly authorized and granted; further, the school board shall have authority to establish a different minimum for local district school purposes.

(5) SCHOOL VOLUNTEER.—A K-12 school volunteer is any nonpaid person who may be appointed by a district school board or its designee. School volunteers may include, but may not be limited to, parents, senior citizens, students, and others who assist the teacher or other members of the school staff.

(6) EDUCATIONAL SUPPORT EMPLOYEES.—“Educational support employees” means K-12 employees whose job functions are neither administrative nor instructional, yet whose work supports the educational process.

(a) Other professional staff or nonadministrative/noninstructional employees are staff members who perform professional job functions which are nonadministrative/noninstructional in nature and

who are not otherwise classified in this section. Included in this classification are employees such as doctors, nurses, attorneys, certified public accountants, and others appropriate to the classification.

(b) Technicians are individuals whose occupations require a combination of knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many career centers and Florida College System institutions, or through equivalent on-the-job training.

(c) Clerical/secretarial workers are individuals whose job requires skills and training in clerical-type work, including activities such as preparing, transcribing, systematizing, or preserving written communications and reports or operating equipment performing those functions. Included in this classification are secretaries, bookkeepers, messengers, and office machine operators.

(d) Skilled crafts workers are individuals who perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Lead workers for the various skilled crafts areas shall be included in this classification.

(e) Service workers are staff members performing a service for which there are no formal qualifications, including those responsible for: cleaning the buildings, school plants, or supporting facilities; maintenance and operation of such equipment as heating and ventilation systems; preserving the security of school property; and keeping the school plant safe for occupancy and use. Lead workers in the various service areas shall be included in this broad classification.

(7) MANAGERS.—“Managers” includes those K-12 staff members who perform managerial and supervisory functions while usually also performing general operations functions. Managers may be either instructional or noninstructional in their responsibility. They may direct employees’ work, plan the work schedule, control the flow and distribution of work or materials, train employees, handle complaints, authorize payments, and appraise productivity and efficiency of employees. This classification includes coordinators and supervisors working under the general direction of those staff identified as district-based instructional or noninstructional administrators.

History.—s. 689, ch. 2002-387; s. 6, ch. 2004-295; ss. 6, 131, ch. 2004-357; s. 161, ch. 2007-217; s. 182, ch. 2011-5; s. 12, ch. 2013-89.

**1012.07 Identification of critical teacher shortage areas.**—The term “critical teacher shortage area” means high-need content areas and high-priority location areas identified by the State Board

of Education. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to annually identify critical teacher shortage areas. The state board must consider cur-

rent and emerging educational requirements and workforce demands in determining critical teacher shortage areas. School grade levels may also be designated critical teacher shortage areas. Individual district school boards may identify and submit other critical teacher shortage areas. Such submissions must be aligned to current and emerging educational requirements and workforce demands in order to be approved by the State Board of

Education. High-priority location areas shall be in high-density, low-economic urban schools; low-density, low-economic rural schools; and schools that earned a grade of “F” or three consecutive grades of “D” pursuant to s. 1008.34.

History.—s. 693, ch. 2002-387; s. 9, ch. 2011-1; s. 18, ch. 2011-37; s. 10, ch. 2012-194.

<sup>1</sup>Note.—Section 17, ch. 2011-1, provides that “[c]hapter 2010-279, Laws of Florida, does not apply to any rulemaking required to administer this act.”

**1012.22 Public school personnel; powers and duties of the district school board.**—The district school board shall:

(1) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of this chapter:

(a) Positions, qualifications, and appointments.—

1. The district school board shall act upon written recommendations submitted by the district school superintendent for positions to be filled, for minimum qualifications for personnel for the various positions, and for the persons nominated to fill such positions.

2. The district school board may reject for good cause any employee nominated.

3. If the third nomination by the district school superintendent for any position is rejected for good cause, if the district school superintendent fails to submit a nomination for initial employment within a reasonable time as prescribed by the district school board, or if the district school superintendent fails to submit a nomination for reemployment within the time prescribed by law, the district school board may proceed on its own motion to fill such position.

4. The district school board’s decision to reject a person’s nomination does not give that person a right of action to sue over the rejection and may not be used as a cause of action by the nominated employee.

(b) Time to act on nominations.—The district school board shall act no later than 3 weeks following the receipt of statewide, standardized assessment scores and data under s. 1008.22 and school grades, or June 30, whichever is later, on the district school superintendent’s nominations of supervisors, principals, and members of the instructional staff.

(c) Compensation and salary schedules.—

1. Definitions.—As used in this paragraph:

a. “Adjustment” means an addition to the base salary schedule that is not a bonus and becomes part of the employee’s permanent base salary and shall be considered compensation under s. 121.021(22).

b. “Grandfathered salary schedule” means the salary schedule or schedules adopted by a

district school board before July 1, 2014, pursuant to subparagraph 4.

c. “Instructional personnel” means instructional personnel as defined in s. 1012.01(2)(a)-(d), excluding substitute teachers.

d. “Performance salary schedule” means the salary schedule or schedules adopted by a district school board pursuant to subparagraph 5.

e. “Salary schedule” means the schedule or schedules used to provide the base salary for district school board personnel.

f. “School administrator” means a school administrator as defined in s. 1012.01(3)(c).

g. “Supplement” means an annual addition to the base salary for the term of the negotiated supplement as long as the employee continues his or her employment for the purpose of the supplement. A supplement does not become part of the employee’s continuing base salary but shall be considered compensation under s. 121.021(22).

2. Cost-of-living adjustment.—A district school board may provide a cost-of-living salary adjustment if the adjustment:

a. Does not discriminate among comparable classes of employees based upon the salary schedule under which they are compensated.

b. Does not exceed 50 percent of the annual adjustment provided to instructional personnel rated as effective.

3. Advanced degrees.—A district school board may not use advanced degrees in setting a salary schedule for instructional personnel or school administrators hired on or after July 1, 2011, unless the advanced degree is held in the individual’s area of certification and is only a salary supplement.

4. Grandfathered salary schedule.—

a. The district school board shall adopt a salary schedule or salary schedules to be used as the basis for paying all school employees hired before July 1, 2014. Instructional personnel on annual contract as of July 1, 2014, shall be placed on the performance salary schedule adopted under subparagraph 5. Instructional personnel on continuing contract or professional service contract may opt into the performance salary schedule if the employee relinquishes such contract and agrees to be employed on an annual contract under s. 1012.335. Such an employee shall be placed on the performance salary schedule and may not return to continuing contract or professional service contract



status. Any employee who opts into the performance salary schedule may not return to the grandfathered salary schedule.

b. In determining the grandfathered salary schedule for instructional personnel, a district school board must base a portion of each employee's compensation upon performance demonstrated under s. 1012.34 and shall provide differentiated pay for both instructional personnel and school administrators based upon district-determined factors, including, but not limited to, additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.

15. Performance salary schedule.—By July 1, 2014, the district school board shall adopt a performance salary schedule that provides annual salary adjustments for instructional personnel and school administrators based upon performance determined under s. 1012.34. Employees hired on or after July 1, 2014, or employees who choose to move from the grandfathered salary schedule to the performance salary schedule shall be compensated pursuant to the performance salary schedule once they have received the appropriate performance evaluation for this purpose. However, a classroom teacher whose performance evaluation utilizes student learning growth measures established under s. 1012.34(7)(e) shall remain under the grandfathered salary schedule until his or her teaching assignment changes to a subject for which there is an assessment or the school district establishes equally appropriate measures of student learning growth as defined under s. 1012.34 and rules of the State Board of Education.

a. Base salary.—The base salary shall be established as follows:

(I) The base salary for instructional personnel or school administrators who opt into the performance salary schedule shall be the salary paid in the prior year, including adjustments only.

(II) Beginning July 1, 2014, instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for the first time to a position in the district in the capacity of instructional personnel or school administrator shall be placed on the performance salary schedule.

b. Salary adjustments.—Salary adjustments for highly effective or effective performance shall be established as follows:

(I) The annual salary adjustment under the performance salary schedule for an employee rated as highly effective must be greater than the highest annual salary adjustment available to an employee of the same classification through any other salary schedule adopted by the district.

(II) The annual salary adjustment under the performance salary schedule for an employee rated

as effective must be equal to at least 50 percent and no more than 75 percent of the annual adjustment provided for a highly effective employee of the same classification.

(III) The performance salary schedule shall not provide an annual salary adjustment for an employee who receives a rating other than highly effective or effective for the year.

c. Salary supplements.—In addition to the salary adjustments, each district school board shall provide for salary supplements for activities that must include, but are not limited to:

(I) Assignment to a Title I eligible school.

(II) Assignment to a school that earned a grade of "F" or three consecutive grades of "D" pursuant to s. 1008.34 such that the supplement remains in force for at least 1 year following improved performance in that school.

(III) Certification and teaching in critical teacher shortage areas. Statewide critical teacher shortage areas shall be identified by the State Board of Education under s. 1012.07. However, the district school board may identify other areas of critical shortage within the school district for purposes of this sub-sub-subparagraph and may remove areas identified by the state board which do not apply within the school district.

(IV) Assignment of additional academic responsibilities.

If budget constraints in any given year limit a district school board's ability to fully fund all adopted salary schedules, the performance salary schedule shall not be reduced on the basis of total cost or the value of individual awards in a manner that is proportionally greater than reductions to any other salary schedules adopted by the district.

(d) Contracts and terms of service.—The district school board shall provide written contracts for all regular members of the instructional staff.

(e) Transfer and promotion.—The district school board shall act on recommendations of the district school superintendent regarding transfer and promotion of any employee. The district school superintendent's primary consideration in recommending an individual for a promotion must be the individual's demonstrated effectiveness under s. 1012.34.

(f) Suspension, dismissal, and return to annual contract status.—The district school board shall suspend, dismiss, or return to annual contract members of the instructional staff and other school employees; however, no administrative assistant, supervisor, principal, teacher, or other member of the instructional staff may be discharged, removed, or returned to annual contract except as provided in this chapter.

(g) Awards and incentives.—The district school board shall provide for recognition of district employees, students, school volunteers, and advisory committee members who have contributed

outstanding and meritorious service in their fields or service areas. After considering recommendations of the district school superintendent, the district school board shall adopt rules establishing and regulating the meritorious service awards necessary for the efficient operation of the program. An award or incentive granted under this paragraph may not be considered in determining the salary schedules required by paragraph (c). Monetary awards shall be limited to persons who propose procedures or ideas adopted by the board which will result in eliminating or reducing district school board expenditures or improving district or school center operations. Nonmonetary awards shall include, but are not limited to, certificates, plaques, medals, ribbons, and photographs. The district school board may expend funds for such recognition and awards. No award granted under this paragraph shall exceed \$2,000 or 10 percent of the first year's gross savings, whichever is greater.

(h) Planning and training time for teachers.—The district school board shall adopt rules to make provisions for teachers to have time for lunch, professional planning, and professional development time when they will not be directly responsible for the children if some adult supervision is furnished for the students during such periods.

(i) Comprehensive program of staff development.—The district school board shall establish a

comprehensive program of staff development that incorporates school improvement plans pursuant to s. 1001.42 and is aligned with principal leadership training pursuant to s. 1012.986 as a part of the plan.

(2) Adopt policies relating to personnel leave as follows:

(a) Annual leave.—The district school board may adopt rules that provide for the earning of annual leave by employees, including educational support employees, who are employed for 12 calendar months a year.

(b) Sick leave.—The district school board may adopt rules relating to sick leave, in accordance with the provisions of this chapter.

(c) Illness-in-line-of-duty leave.—The district school board may adopt rules relating to illness-in-the-line-of-duty leave, in accordance with the provisions of this chapter.

(d) Sabbatical leave.—The district school board may adopt rules relating to sabbatical leave, in accordance with the provisions of this chapter.

History.—s. 697, ch. 2002-387; s. 50, ch. 2003-391; s. 56, ch. 2006-74; s. 7, ch. 2007-3; s. 180, ch. 2007-5; s. 4, ch. 2011-1; s. 11, ch. 2012-194; s. 40, ch. 2013-27; s. 92, ch. 2014-39.

\*Note.—Section 17, ch. 2011-1, provides that “[c]hapter 2010-279, Laws of Florida, does not apply to any rulemaking required to administer this act.”

**1012.27 Public school personnel; powers and duties of district school superintendent.**—The district school superintendent is responsible for directing the work of the personnel, subject to the requirements of this chapter, and in addition the district school superintendent shall perform the following:

(1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

(a) Recommend to the district school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an adequate school program in the district.

(b) Recommend minimum qualifications of personnel for these various positions, and nominate in writing persons to fill such positions.

The district school superintendent's recommendations for filling instructional positions at the school level must consider nominations received from school principals of the respective schools. Before transferring a teacher who holds a professional teaching certificate from one school to another, the district school superintendent shall consult with the principal of the receiving school and allow the principal to review the teacher's records, including student performance demonstrated under s. 1012.34, and interview the teacher. If, in the judgment of the principal, students would not benefit from the placement, an alternative place-

ment may be sought. A principal may refuse the placement in accordance with s. 1012.28(6).

(2) COMPENSATION AND SALARY SCHEDULES.—Prepare and recommend to the district school board for adoption a salary schedule or salary schedules in accordance with s. 1012.22.

(3) CONTRACTS AND TERMS OF SERVICE.—Recommend to the district school board terms for contracting with employees and prepare such contracts as are approved.

(4) TRANSFER.—Recommend employees for transfer and transfer any employee during any emergency and report the transfer to the district school board at its next regular meeting.

(5) SUSPENSION AND DISMISSAL.—Suspend members of the instructional staff and other school employees during emergencies for a period extending to and including the day of the next regular or special meeting of the district school board and notify the district school board immediately of such suspension. When authorized to do so, serve notice on the suspended member of the instructional staff of charges made against him or her and of the date of hearing. Recommend employees for dismissal under the terms prescribed herein.

(6) EMPLOYMENT HISTORY CHECKS.—Before employing instructional personnel and school administrators, as defined in s. 1012.01, in any position that requires direct contact with students, conduct employment history checks of each of the

personnel's or administrators' previous employers, screen the personnel or administrators through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the district school superintendent shall document efforts to contact the employer.

(7) **DIRECT WORK OF EMPLOYEES AND SUPERVISE INSTRUCTION.**—Direct or arrange for the proper direction and improvement, under rules of the district school board, of the work of all members of the instructional staff and other employees of the district school system, supervise or arrange under rules of the district school board for the supervision of instruction in the district, and take

such steps as are necessary to bring about continuous improvement.

History.—s. 702, ch. 2002-387; s. 42, ch. 2003-391; s. 58, ch. 2006-74; s. 25, ch. 2008-108; s. 11, ch. 2011-1.

**1012.37 Education paraprofessionals.**—A district school board may appoint education paraprofessionals to assist members of the instructional staff in carrying out their duties and responsibilities. An education paraprofessional shall not be required to hold a teaching certificate. An education paraprofessional, while rendering services under the supervision of a certified teacher, shall be accorded

the same protection of laws as that accorded the certified teacher. Paid education paraprofessionals employed by a district school board shall be entitled to the same rights as those accorded noninstructional employees of the district school board.

History.—s. 712, ch. 2002-387.

**1012.42 Teacher teaching out-of-field.**—

(1) **ASSISTANCE.**—Each district school board shall adopt and implement a plan to assist any teacher teaching out-of-field, and priority consideration in professional development activities shall be given to a teacher who is teaching out-of-field. The district school board shall require that the teacher participate in a certification or staff development program designed to provide the teacher with the competencies required for the assigned duties. The board-approved assistance plan must include duties of administrative personnel and other instructional personnel to provide students with instructional services.

(2) **NOTIFICATION REQUIREMENTS.**—When a teacher in a district school system is assigned teaching duties in a class dealing with subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise, as determined by district school board policy in the subject area to be taught, the parents of all students in the class shall be notified in writing of such assignment.

History.—s. 717, ch. 2002-387; s. 182, ch. 2010-102.

**1012.44 Qualifications for certain persons providing speech-language services.**—The State Board of Education shall adopt rules for speech-language services to school districts that qualify for the sparsity supplement as described in s. 1011.62(7). These services may be provided by baccalaureate degree level persons for a period of 3 years. The rules shall authorize the delivery of

speech-language services by baccalaureate degree level persons under the direction of a certified speech-language pathologist with a master's degree or higher.

History.—s. 719, ch. 2002-387; s. 14, ch. 2006-27; s. 95, ch. 2014-39.

**1012.55 Positions for which certificates required.**—

(1)(a) The State Board of Education shall classify school services, designate the certification subject areas, establish competencies, including the use of technology to enhance student learning, and certification requirements for all school-based personnel, and adopt rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to applicants who meet the standards

prescribed by such rules for their class of service.

(b) Each person employed or occupying a position as school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the State Board of Education in fulfilling the requirements of the law for the type of service rendered. Such positions include personnel providing direct

instruction to students through a virtual environment or through a blended virtual and physical environment.

(c) The Department of Education shall identify appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses that are funded through the Florida Education Finance Program. However, the state board shall adopt rules authorizing district school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as education paraprofessionals.

(d) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to allow an individual who meets the following criteria to be eligible for a temporary certificate in educational leadership under s. 1012.56(7):

1. Earning a passing score on the Florida Educational Leadership Examination;
2. Documenting 3 years of successful experience in an executive management or leadership position; and
3. Documenting receipt of a bachelor's degree or higher from an accredited institution of higher learning.

A person operating under a temporary certificate must be under the mentorship of a state-certified school administrator during the term of the temporary certificate.

(2)(a) Each person who is employed and renders service as an athletic coach in any public school in any district of this state shall hold a valid temporary or professional certificate or an athletic coaching certificate. The athletic coaching certificate may be used for either part-time or full-time positions. The provisions of this subsection do not apply to any athletic coach who voluntarily renders service and who is not employed by any public school district of this state.

(b) Completion of a sports safety course shall count for 6 hours of required school district inservice instruction for athletic coaching certification if the course is approved by the Florida High School Athletic Association Board of Directors and meets the following requirements:

1. The course consists of at least eight modules.
2. The course immediately provides an

individual with a "merit" certificate at the time of successful completion.

3. The course is delivered through hands-on and online teaching methods.

4. The course is a hands-on course taught by either a state-licensed athletic trainer who holds a current certificate from the Board of Certification or a member of the American Academy of Orthopaedic Surgeons.

5. Hands-on course material is less than 120 pages.

6. The course covers sports safety specifically, excluding coaching principles and procedures for cardiopulmonary resuscitation.

7. The course is authored or approved by at least 10 health care professionals, including doctors of medicine, doctors of osteopathy, registered nurses, physical therapists, and certified athletic trainers.

8. The course is revised and reviewed for updates at least once every 30 months.

9. The course is available to the general public for a retail price under \$50.

10. Each course examination is automated and taken online with a score of 80 percent or better for successful completion.

(3) Each person employed as a school nurse shall hold a license to practice nursing in the state, and each person employed as a school physician shall hold a license to practice medicine in the state.

(4) A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the background screening pursuant to s. 1012.32, if he or she meets the following qualifications:

(a) Is retired from active military duty, pursuant to chapter 102 of Title 10 U.S.C.

(b) Satisfies criteria established by the appropriate military service for certification by the service as a junior reserve officer training instructor.

(c) Has an exemplary military record.

If such instructor is assigned instructional duties other than junior reserve officer training, he or she shall hold the certificate required by law and rules of the state board for the type of service rendered.

History.—s. 727, ch. 2002-387; s. 15, ch. 2004-295; s. 1, ch. 2009-88; s. 34, ch. 2010-154; s. 7, ch. 2013-185.

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#### **1012.56 Educator certification requirements.—**

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education. Pursuant to the federal Personal Responsibility

and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. 120.60, the department shall issue

within 90 calendar days after the stamped receipted date of the completed application:

(a) If the applicant meets the requirements, a professional certificate covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate;

(b) If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to paragraphs (6)(f) and (8)(b), a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or

(c) If an applicant does not meet the requirements for either certificate, an official statement of status of eligibility.

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2)(d).

(2) **ELIGIBILITY CRITERIA.**—To be eligible to seek certification, a person must:

(a) Be at least 18 years of age.

(b) File an affidavit that the applicant subscribes to and will uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida and that the information provided in the application is true, accurate, and complete. The affidavit shall be by original signature or by electronic authentication. The affidavit shall include substantially the following warning:

**WARNING:** Giving false information in order to obtain or renew a Florida educator's certificate is a criminal offense under Florida law. Anyone giving false information on this affidavit is subject to criminal prosecution as well as disciplinary action by the Education Practices Commission.

(c) Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree, or higher. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems. The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegree areas. The State Board of Education may adopt

rules that, for purposes of demonstrating completion of specific certification requirements, allow for the acceptance of college course credits recommended by the American Council for Education (ACE), as posted on an official ACE transcript.

(d) Submit to background screening in accordance with subsection (10). If the background screening indicates a criminal history or if the applicant acknowledges a criminal history, the applicant's records shall be referred to the investigative section in the Department of Education for review and determination of eligibility for certification. If the applicant fails to provide the necessary documentation requested by the department within 90 days after the date of the receipt of the certified mail request, the statement of eligibility and pending application shall become invalid.

(e) Be of good moral character.

(f) Be competent and capable of performing the duties, functions, and responsibilities of an educator.

(g) Demonstrate mastery of general knowledge, pursuant to subsection (3).

(h) Demonstrate mastery of subject area knowledge, pursuant to subsection (5).

(i) Demonstrate mastery of professional preparation and education competence, pursuant to subsection (6).

(3) **MASTERY OF GENERAL KNOWLEDGE.**—Acceptable means of demonstrating mastery of general knowledge are:

(a) Achievement of passing scores on the general knowledge examination required by state board rule;

(b) Documentation of a valid professional standard teaching certificate issued by another state;

(c) Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education;

(d) Documentation of two semesters of successful, full-time or part-time teaching in a Florida College System institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program; or

(e) Effective July 1, 2015, achievement of passing scores, identified in state board rule, on national or international examinations that test comparable content and relevant standards in verbal, analytical writing, and quantitative reasoning skills, including, but not limited to, the verbal, analytical writing, and quantitative reasoning portions of the Graduate Record Examination. Passing scores identified in state board rule must be at approximately the same level of rigor as is required to pass the general knowledge examinations.



(4) **ALIGNMENT OF SUBJECT AREAS.**—The State Board of Education shall align the subject area examinations to the Next Generation Sunshine State Standards.

(5) **MASTERY OF SUBJECT AREA KNOWLEDGE.**—Acceptable means of demonstrating mastery of subject area knowledge are:

(a) For a subject requiring only a baccalaureate degree for which a Florida subject area examination has been developed, achievement of a passing score on the Florida-developed subject area examination specified in state board rule;

(b) For a subject for which a Florida subject area examination has not been developed, achievement of a passing score on a standardized examination specified in state board rule, including, but not limited to, passing scores on both the oral proficiency and written proficiency examinations administered by the American Council on the Teaching of Foreign Languages;

(c) For a subject for which a Florida subject area examination has not been developed or a standardized examination has not been specified in state board rule, completion of the subject area specialization requirements specified in state board rule and verification of the attainment of the essential subject matter competencies by the district school superintendent of the employing school district or chief administrative officer of the employing state-supported or private school;

(d) For a subject requiring a master's or higher degree, completion of the subject area specialization requirements specified in state board rule and achievement of a passing score on the Florida-developed subject area examination or a standardized examination specified in state board rule;

(e) Documentation of a valid professional standard teaching certificate issued by another state; or

(f) Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education.

School districts are encouraged to provide mechanisms for middle grades teachers holding only a K-6 teaching certificate to obtain a subject area coverage for middle grades through postsecondary coursework or district add-on certification.

(6) **MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.**—Acceptable means of demonstrating mastery of professional preparation and education competence are:

(a) Successful completion of an approved teacher preparation program at a postsecondary educational institution within this state and achievement of a passing score on the professional education competency examination required by state board rule;

(b) Successful completion of a teacher prepa-

ration program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by state board rule;

(c) Documentation of a valid professional standard teaching certificate issued by another state;

(d) Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education;

(e) Documentation of two semesters of successful, full-time or part-time teaching in a Florida College System institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program and achievement of a passing score on the professional education competency examination required by state board rule;

(f) Successful completion of professional preparation courses as specified in state board rule, successful completion of a professional preparation and education competence program pursuant to paragraph (8)(b), and achievement of a passing score on the professional education competency examination required by state board rule;

(g) Successful completion of a professional development certification and education competency program, outlined in paragraph (8)(a); or

(h) Successful completion of a competency-based certification program pursuant to s. 1004.85 and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education.

The State Board of Education shall adopt rules to implement this subsection by December 31, 2014, including rules to approve specific teacher preparation programs that are not identified in this subsection which may be used to meet requirements for mastery of professional preparation and education competence.

(7) **TYPES AND TERMS OF CERTIFICATION.**—

(a) The Department of Education shall issue a professional certificate for a period not to exceed 5 years to any applicant who meets all the requirements outlined in subsection (2).

(b) The department shall issue a temporary certificate to any applicant who completes the requirements outlined in paragraphs (2)(a)-(f) and completes the subject area content requirements specified in state board rule or demonstrates mastery of subject area knowledge pursuant to subsection (5) and holds an accredited degree or a degree approved by the Department of Education at the level required for the subject area specialization in state board rule.

(c) The department shall issue one nonrenewable 2-year temporary certificate and one

nonrenewable 5-year professional certificate to a qualified applicant who holds a bachelor's degree in the area of speech-language impairment to allow for completion of a master's degree program in speech-language impairment.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2)(g). The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

**(8) PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—**

(a) The Department of Education shall develop and each school district may provide a cohesive competency-based professional development certification and education competency program by which members of a school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in subsection (6) and rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district that implements the program shall provide a competency-based certification program developed by the Department of Education or developed by the district and approved by the Department of Education. The program shall include the following:

1. A minimum period of initial preparation before assuming duties as the teacher of record.
2. An option for collaboration between school districts and other supporting agencies or educational entities for implementation.
3. An experienced peer-mentor component. Each individual selected by the district as a peer mentor must hold a valid professional certificate issued pursuant to this section, must have earned

at least 3 years of teaching experience in prekindergarten through grade 12, and must have earned an effective or highly effective rating on the prior year's performance evaluation under s. 1012.34 or be a peer evaluator under the district's evaluation system approved under s. 1012.34.

4. An assessment of teaching performance aligned to the district's system for personnel evaluation under s. 1012.34 which provides for:

a. An initial evaluation of each educator's competencies to determine an appropriate individualized professional development plan.

b. A summative evaluation to assure successful completion of the program.

5. Professional education preparation content knowledge that includes, but is not limited to, the following:

a. The state standards provided under s. 1003.41, including scientifically based reading instruction, content literacy, and mathematical practices, for each subject identified on the temporary certificate.

b. The educator-accomplished practices approved by the state board.

c. A variety of data indicators for monitoring student progress.

d. Methodologies for teaching students with disabilities.

e. Methodologies for teaching students of limited English proficiency appropriate for each subject area identified on the temporary certificate.

f. Techniques and strategies for operationalizing the role of the teacher in assuring a safe learning environment for students.

6. Required achievement of passing scores on the subject area and professional education competency examination required by State Board of Education rule. Mastery of general knowledge must be demonstrated as described in subsection (3).

(b)1. Each school district must and a state supported public school or a private school may develop and maintain a system by which members of the instructional staff may demonstrate mastery of professional preparation and education competence as required by law. Each program must be based on classroom application of the Florida Educator Accomplished Practices and instructional performance and, for public schools, must be aligned with the district's evaluation system approved under s. 1012.34.

2. The Commissioner of Education shall determine the continued approval of programs implemented under this paragraph, based upon the department's review of performance data. The department shall review the performance data as a part of the periodic review of each school district's professional development system required under s. 1012.98.

(c) The Commissioner of Education shall

determine the continued approval of programs implemented under paragraph (a) based upon the department's periodic review of the following:

1. Evidence that the requirements in paragraph (a) are consistently met; and
2. Evidence of performance in each of the following areas:
  - a. Rate of retention for employed program completers in instructional positions in Florida public schools.
  - b. Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers on statewide assessments using the results of the student learning growth formula adopted under s. 1012.34.
  - c. Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers aggregated by student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II), as a measure of how well the program prepares teachers to work with a variety of students in Florida public schools.
  - d. Results of program completers' annual evaluations in accordance with the timeline as set forth in s. 1012.34.
  - e. Production of program completers in statewide critical teacher shortage areas as defined in s. 1012.07.

(9) EXAMINATIONS.—

(a) The Commissioner of Education, with the approval of the State Board of Education, may contract for developing, printing, administering, scoring, and appropriate analysis of the written examinations required.

(b) The State Board of Education shall, by rule, specify the examination scores that are required for the issuance of a professional certificate and temporary certificate. Such rules must define generic subject area competencies and must establish uniform evaluation guidelines.

(c) The State Board of Education shall designate the certification areas for subject area examinations. All required examinations may be taken prior to graduation.

(d) The department shall provide procedures for an applicant who fails an examination developed by the department or by an entity under contract with the department to review his or her examination questions and his or her incorrectly answered responses to the questions. The applicant bears the actual cost for the department to provide an examination review pursuant to this subsection. Notwithstanding any other provisions of law, only an applicant who fails an examination within a score range established by rule of the State Board of Education is entitled to an examination review under this paragraph or to challenge the validity of the examination.

(e) For any examination developed by this

state, the Department of Education and the State Board of Education shall maintain confidentiality of the examination, developmental materials, and workpapers, which are exempt from s. 119.07(1).

(f) The examinations used for demonstration of mastery of general knowledge, professional education competence, and subject area knowledge shall be aligned with student standards approved by the state board. The delivery system for these examinations shall provide for overall efficiency, user-friendly application, reasonable accessibility to prospective teachers, and prompt attainment of examination results. The examination of competency for demonstration of subject area knowledge shall be sufficiently comprehensive to assess subject matter expertise for individuals who have acquired subject knowledge either through college credit or by other means.

(g) All examination instruments, including developmental materials and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and from s. 1001.52. Provisions governing access to, maintenance of, and destruction of such instruments and related materials shall be prescribed by rules of the State Board of Education.

(10) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—

(a) Each person who seeks certification under this chapter must be fingerprinted and screened in accordance with s. 1012.32 and must not be ineligible for such certification under s. 1012.315. A person who has been screened in accordance with s. 1012.32 by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education, is not required to repeat the screening under this paragraph.

(b) A person may not receive a certificate under this chapter until the person's screening under s. 1012.32 is completed and the results have been submitted to the Department of Education or to the district school superintendent of the school district that employs the person. Every 5 years after obtaining initial certification, each person who is required to be certified under this chapter must be rescreened in accordance with s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal records checks. If, for any reason after obtaining initial certification, the fingerprints of a person who is required to be certified under this chapter are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of

the employing school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal records checks, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the state and federal criminal history checks required by paragraph (a) and this paragraph may be borne by the district school board or the employee. Under penalty of perjury, each person who is certified under this chapter must agree to inform his or her employer within 48 hours if convicted of any disqualifying offense while he or she is employed in a position for which such certification is required.

(c) If it is found under s. 1012.796 that a person who is employed in a position requiring certification under this chapter has not been screened in accordance with s. 1012.32, or is ineligible for such certification under s. 1012.315, the person's certification shall be immediately revoked or suspended and he or she shall be immediately suspended from the position requiring certification.

**(11) NONCITIZENS.—**

(a) The State Board of Education may adopt rules for issuing certificates to noncitizens who are needed to teach and who are legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services. The filing of a written oath to uphold the principles of the Constitution of the United States and the Constitution of the State of Florida, required under paragraph (2)(b), does not apply to individuals assigned to teach on an exchange basis.

(b) A certificate may not be issued to a citizen of a nation controlled by forces that are antagonistic to democratic forms of government, except to an individual who has been legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services.

**(12) DENIAL OF CERTIFICATE.—**

**1012.565 Educator certification for blind and visually impaired students.—**As a part of the certification process, teachers certified in the education of blind and visually impaired students shall be required to demonstrate competence in reading, writing, and teaching braille pursuant to standards adopted by the Department of Education, comparable to the braille reading and writing standards ad-

**1012.582 Continuing education and inservice training for teaching students with developmental disabilities.—**

(1) The Commissioner of Education shall develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education or inservice training requirements for instructional personnel. These recom-

(a) The Department of Education may deny an applicant a certificate if the department possesses evidence satisfactory to it that the applicant has committed an act or acts, or that a situation exists, for which the Education Practices Commission would be authorized to revoke a teaching certificate.

(b) The decision of the department is subject to review by the Education Practices Commission upon the filing of a written request from the applicant within 20 days after receipt of the notice of denial.

(13) **STATE BOARD RULES.—**The State Board of Education shall adopt rules pursuant to ss. 120.536 and 120.54, as necessary to implement this section.

(14) **PRIOR APPLICATION.—**Persons who apply for certification are governed by the law and rules in effect at the time of application for issuance of the initial certificate, provided that continuity of certificates is maintained.

(15) **PERSONNEL RECORDS.—**The Department of Education shall maintain an electronic database that includes, but need not be limited to, the academic preparation, professional training, and teaching experience of each person to whom a certificate is issued. The applicant or the district school superintendent shall furnish the information using a format provided by the department.

(16) **AUTHORITY OF COMMISSIONER.—**The Commissioner of Education may make decisions regarding an applicant's certification under extenuating circumstances not otherwise provided for in statute or by rule. However, an applicant for certification approved by the commissioner must possess the credentials, knowledge, and skills necessary to provide quality education in the public schools.

History.—s. 728, ch. 2002-387; s. 43, ch. 2003-391; s. 170, ch. 2004-5; s. 16, ch. 2004-295; s. 61, ch. 2006-74; s. 30, ch. 2008-108; s. 25, ch. 2008-235; s. 104, ch. 2009-21; s. 184, ch. 2011-5; s. 41, ch. 2013-27; s. 8, ch. 2013-185; ss. 3, 4, ch. 2014-32.

opted by the National Library Service for the Blind and Physically Handicapped, Library of Congress, Washington, D.C. The department shall ensure that teachers of students with visual impairments have access to inservice instruction for the purpose of updating their braille skill competence.

History.—s. 729, ch. 2002-387.

mendations shall address:

(a) Early identification of, and intervention for, students who have autism spectrum disorder, Down syndrome, or other developmental disabilities.

(b) Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques.

(c) The use of available state and local resources.

(d) The use of positive behavioral supports to deescalate problem behaviors.

(e) Appropriate use of manual physical restraint and seclusion techniques.

(2) In developing the recommendations, the commissioner shall consult with the State Surgeon General, the Director of the Agency for Persons with Disabilities, representatives from the education community in the state, and representatives from entities that promote awareness about autism spectrum disorder, Down syndrome, and other developmental disabilities and provide programs and services to persons with developmental disabilities, including, but not limited to, regional autism centers pursuant to s. 1004.55.

(3) Beginning with the 2010-2011 school year,

the Department of Education shall incorporate the course curricula recommended by the Commissioner of Education, pursuant to subsection (1), into existing requirements for the continuing education or inservice training of instructional personnel. The requirements of this section may not add to the total hours required for continuing education or inservice training as currently established by the department.

(4) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

History.—s. 6, ch. 2010-224.

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**1012.585 Process for renewal of professional certificates.—**

(1)(a) District school boards shall renew state-issued professional certificates as follows:

1. Each district school board shall renew state-issued professional certificates for individuals who hold a state-issued professional certificate and are employed by that district pursuant to criteria established in subsections (2), (3), and (4) and rules of the State Board of Education.

2. The employing school district may charge the individual an application fee not to exceed the amount charged by the Department of Education for such services, including associated late renewal fees. Each district school board shall transmit monthly to the department a fee in an amount established by the State Board of Education for each renewed certificate. The fee shall not exceed the actual cost for maintenance and operation of the statewide certification database and for the actual costs incurred in printing and mailing such renewed certificates. As defined in current rules of the state board, the department shall contribute a portion of such fee for purposes of funding the Educator Recovery Network established in s. 1012.798. The department shall deposit all funds into the Educational Certification and Service Trust Fund for use as specified in s. 1012.59.

(b) The department shall renew state-issued professional certificates for individuals who are not employed by a district school board of this state pursuant to criteria established in subsections (2), (3), and (4) and requirements specified in rules of the state board.

(2)(a) All professional certificates, except a nonrenewable professional certificate, shall be renewable for successive periods not to exceed 5 years after the date of submission of documentation of completion of the requirements for renewal provided in subsection (3). Only one renewal may be granted during each 5-year validity period of a professional certificate.

(b) A teacher with national certification

from the National Board for Professional Teaching Standards is deemed to meet state renewal requirements for the life of the teacher's national certificate in the subject shown on the national certificate. A complete renewal application and fee shall be submitted. The Commissioner of Education shall notify teachers of the renewal application and fee requirements.

(c) If the renewal application form is not received by the department or by the employing school district before the expiration of the professional certificate, the application form, application fee, and a late fee must be submitted before July 1 of the year following expiration of the certificate in order to renew the professional certificate.

(d) The State Board of Education shall adopt rules to allow a 1-year extension of the validity period of a professional certificate in the event of serious illness, injury, or other extraordinary extenuating circumstances of the applicant. The department shall grant such 1-year extension upon written request by the applicant or by the district school superintendent or the governing authority of a university lab school, state-supported school, or private school that employs the applicant.

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

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 1004.04(5)(b) and credits or points that provide training in the area of scientifically researched, knowledge-based reading literacy and computational skills acquisition, exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching



students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be applied toward any specialization area. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 1012.98 in the district's approved master plan for inservice educational training, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 1001.452.

(b) In lieu of college course credit or inservice points, the applicant may renew a subject area specialization by passage of a state board approved Florida-developed subject area examination or, if a Florida subject area examination has not been developed, a standardized examination specified in state board rule.

(c) If an applicant wishes to retain more than two specialization areas on the certificate, the applicant shall be permitted two successive validity periods for renewal of all specialization areas, but must earn no fewer than 6 college course credit hours or the equivalent in any one validity period.

(d) The State Board of Education shall adopt rules for the expanded use of training for renewal of the professional certificate for educators who are required to complete training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading as follows:

1. A teacher who holds a professional certificate may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading in excess of 6 semester hours during one certificate-validity period toward renewal of the professional certificate during the subsequent validity periods.

2. A teacher who holds a temporary certificate may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in the teaching of reading toward renewal of the teacher's first professional certificate. Such training must not have been included within

the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.

(e) Beginning July 1, 2014, an applicant for renewal of a professional certificate must earn a minimum of one college credit or the equivalent inservice points in the area of instruction for teaching students with disabilities. The requirement in this paragraph may not add to the total hours required by the department for continuing education or inservice training.

(4) When any person who holds a valid temporary certificate or professional certificate is called into or volunteers for actual wartime service or required peacetime military service training, the certificate shall be renewed for a period of time equal to the time spent in military service if the person makes proper application and presents substantiating evidence to the department or the employing school district regarding such military service.

(5) The State Board of Education shall adopt rules to allow the reinstatement of expired professional certificates. The department may reinstate an expired professional certificate if the certificateholder:

(a) Submits an application for reinstatement of the expired certificate.

(b) Documents completion of 6 college credits during the 5 years immediately preceding reinstatement of the expired certificate, completion of 120 inservice points, or a combination thereof, in an area specified in paragraph (3)(a) to include the credit required under paragraph (3)(e).

(c) During the 5 years immediately preceding reinstatement of the certificate, achieves a passing score on the Florida-developed subject area examination or, if a Florida subject area examination has not been developed, a standardized examination specified in state board rule for each subject to be shown on the reinstated certificate.

The requirements of this subsection may not be satisfied by subject area examinations or college credits completed for issuance of the certificate that has expired.

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

History.—s. 733, ch. 2002-387; s. 45, ch. 2003-391; s. 70, ch. 2004-41; s. 19, ch. 2004-295; s. 9, ch. 2013-185; s. 9, ch. 2013-236; s. 5, ch. 2014-32.

**1012.586 Additions or changes to certificates; duplicate certificates.**—A school district may process via a Department of Education website certificates for the following applications of public school employees:

(1) Addition of a subject coverage or

endorsement to a valid Florida certificate on the basis of the completion of the appropriate subject area testing requirements of s. 1012.56(5)(a) or the completion of the requirements of an approved school district program or the inservice components for an endorsement.

(2) A reissued certificate to reflect a name change.

(3) A duplicate certificate to replace a lost or damaged certificate.

The employing school district shall charge the employee a fee not to exceed the amount charged by the Department of Education for such services. Each district school board shall retain a

portion of the fee as defined in the rules of the State Board of Education. The portion sent to the department shall be used for maintenance of the technology system, the web application, and posting and mailing of the certificate.

History.-s. 46, ch. 2003-391; s. 27, ch. 2008-235.



# Florida Statutes Pertaining to Special Programs

## Chapter 39

### Proceedings Relating to Children

**39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—**

(1) **DEFINITIONS.**—As used in this section, the term:

(a) “Children known to the department” means children who are found to be dependent or children in shelter care.

(b) “Department” means the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.

(c) “Surrogate parent” means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child’s rights under the Individuals with Disabilities Education Act and this section.

(2) **AGENCY AGREEMENTS.**—

(a) The department shall enter into an agreement with the Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs. The agreement must require the Department of Education to access the department’s Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

(b) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

1. A requirement that the department shall:

a. Enroll children known to the department in school. The agreement shall provide for continuing the enrollment of a child known to the department at the same school, if possible, with the goal of avoiding disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for

child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department’s Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

d. Notify the school district of the department’s case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

- a. Referral for screening.
- b. Sharing of evaluations between the school district and the department where appropriate.
- c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.
- d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.
- e. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies.
- f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

(c) This subsection establishes standards and not rights. This subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this subsection becoming law or failure by the Legislature to provide adequate funding for the achievement of these standards. This subsection does not require the expenditure of funds to meet the standards established in this subsection except funds specifically appropriated for such purpose.

(3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

(a)1. The Legislature finds that disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our public policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

2. The Legislature also finds that research and experience have shown that the education of children with disabilities can be made more effective by:

- a. Having high expectations for these children and ensuring their access to the general

education curriculum in the regular classroom, to the maximum extent possible.

b. Providing appropriate exceptional student education, related services, and aids and supports in the least restrictive environment appropriate for these children.

c. Having a trained, interested, and consistent educational decisionmaker for the child when the parent is determined to be legally unavailable or when the foster parent is unwilling, has no significant relationship with the child, or is not trained in the exceptional student education process.

3. It is, therefore, the intent of the Legislature that all children with disabilities known to the department, consistent with the Individuals with Disabilities Education Act, have available to them a free, appropriate public education that emphasizes exceptional student education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living and that the rights of children with disabilities are protected.

(b)1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. 1003.01(3), when:

a. After reasonable efforts, no parent can be located; or

b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the child without judicial action.

2. A surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented. Neither the district school superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, the Department of Children and Families, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process. The surrogate parent may be a court-appointed guardian ad litem or a relative or nonrelative adult who is involved in the child's life



regardless of whether that person has physical custody of the child. Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.

3. If a guardian ad litem has been appointed for a child, the district school superintendent must first consider the child's guardian ad litem when appointing a surrogate parent. The district school superintendent must accept the appointment of the court if he or she has not previously appointed a surrogate parent. Similarly, the court must accept a surrogate parent duly appointed by a district school superintendent.

4. A surrogate parent appointed by the district school superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care so that a single surrogate parent can follow the education of the child during his or her entire time in state custody. Nothing in this paragraph or in rule shall limit or prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

5. For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to appoint a surrogate parent, notice shall be provided as soon as practicable to the child's school. At any time the court determines that it is in the best interests of a child to remove a surrogate parent, the court may appoint a new surrogate parent for educational decisionmaking purposes for that child.

6. The surrogate parent shall continue in the appointed role until one of the following occurs:

- a. The child is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested.
- b. The child achieves permanency through adoption or legal guardianship and is no longer in the custody of the department.
- c. The parent who was previously unknown becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available.
- d. The appointed surrogate no longer wishes to represent the child or is unable to represent the child.
- e. The superintendent of the school district in which the child is attending school, the Department of Education contract designee, or the court that appointed the surrogate determines that the appointed surrogate parent no longer adequately

represents the child.

f. The child moves to a geographic location that is not reasonably accessible to the appointed surrogate.

7. The appointment and termination of appointment of a surrogate under this paragraph shall be entered as an order of the court with a copy of the order provided to the child's school as soon as practicable.

8. The person appointed as a surrogate parent under this paragraph must:

- a. Be acquainted with the child and become knowledgeable about his or her disability and educational needs.
- b. Represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child.
- c. Represent the interests and safeguard the rights of the child in educational decisions that affect the child.

9. The responsibilities of the person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for such other purposes.

10. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability.

11. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.

(4) TRAINING.—The department shall incorporate an education component into all training programs of the department regarding children known to the department. Such training shall be coordinated with the Department of Education and the local school districts. The department shall offer opportunities for education personnel to participate in such training. Such coordination shall include, but not be limited to, notice of training sessions, opportunities to purchase training materials, proposals to avoid duplication of services by offering joint training, and incorporation of materials available from the Department of Education and local school districts into the department training when appropriate. The department training components shall include:

- (a) Training for surrogate parents to include how an ability to learn of a child known to the department is affected by abuse, abandonment, neglect, and removal from the home.
- (b) Training for parents in cases in which reunification is the goal, or for preadoptive parents when adoption is the goal, so that such parents

learn how to access the services the child known to the department needs and the importance of their involvement in the education of the child known to the department.

(c) Training for caseworkers and foster parents to include information on the right of the child known to the department to an education, the role of an education in the development and adjustment of a child known to the department, the proper ways to access education and related services for the child known to the department, and the importance and strategies for parental involvement in education for the success of the child

known to the department.

(d) Training of caseworkers regarding the services and information available through the Department of Education and local school districts, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.

History.—s. 3, ch. 2004-356; s. 1, ch. 2009-35; s. 10, ch. 2014-19.

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**39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—**

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(c) Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(d) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in s. 39.202.

(e) A professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(f) An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

(g) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.987 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(h) An officer or employee of a law enforcement agency is not required to provide notice to the department of reasonable cause to suspect child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare when the incident under investigation by the law enforcement agency was reported to law enforcement by the Central Abuse Hotline through the electronic transfer of the report or call. The department's Central Abuse Hotline is not required to electronically transfer calls and reports received pursuant to paragraph (2)

(b) to the county sheriff's office if the matter was initially reported to the department by the county

sheriff's office or another law enforcement agency. This paragraph applies only when the information related to the alleged child abuse has been provided to the officer or employee of a law enforcement agency or Central Abuse Hotline employee in the course of carrying out his or her official duties.

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

(b) Each report of known or suspected child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Such reports or calls shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior shall be made and received by the department. An alleged incident of juvenile sexual abuse involving a child who is in the custody of or protective supervision of the department shall be reported to the department's central abuse hotline.

1. The central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours

after the initial report is made to the central abuse hotline.

2. The department shall ensure that the facts and results of any investigation of child sexual abuse involving a child in the custody of or under the protective supervision of the department are made known to the court at the next hearing or included in the next report to the court concerning the child.

(d) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the report or call for investigation, but shall transfer the information on the report to the appropriate state.

(e) If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(f) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(g) Reports involving surrendered newborn infants as described in s. 383.50 shall be made and received by the department.

1. If the report is of a surrendered newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

2. If the call, fax, web-based chat, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or aban-

donment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol (IP) address from which the report is received. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the reporter pursuant to s. 39.202.

(i) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The department shall maintain an electronic copy of each fax and web-based report. The recording or electronic copy of each fax and web-based report shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings, the electronic copies of faxes, and web-based reports by hotline staff for quality assurance and training.

(j)1. The department shall update the web form used for reporting child abuse, abandonment, or neglect to:

a. Include qualifying questions in order to obtain necessary information required to assess need and a response.

b. Indicate which fields are required to submit the report.

c. Allow a reporter to save his or her report and return to it at a later time.

2. The report shall be made available to the counselors in its entirety as needed to update the Florida Safe Families Network or other similar systems.

(k) The department shall conduct a study to determine the feasibility of using text and short message service formats to receive and process reports of child abuse, abandonment, or neglect to the central abuse hotline.

(3) Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse,

abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

(4) The department shall operate and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, via web-based chat, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The department shall promote public awareness of the central abuse hotline through community-based partner organizations and public service campaigns. The central abuse hotline is the first step in the safety assessment and investigation process. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.

(b) Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.

(c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

(d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports. The department shall collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02.

(e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.

(f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse,

abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's

automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

(7) On an ongoing basis, the department's quality assurance program shall review calls, fax reports, and web-based reports to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. A component of the quality assurance program shall analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened out calls. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 7, ch. 84-226; s. 37, ch. 85-54; s. 68, ch. 86-163; s. 34, ch. 87-238; s. 21, ch. 88-337; s. 33, ch. 89-294; s. 6, ch. 90-50; s. 51, ch. 90-306; s. 7, ch. 91-57; s. 17, ch. 91-71; s. 6, ch. 93-25; s. 59, ch. 94-164; ss. 22, 44, ch. 95-228; s. 9, ch. 95-266; s. 51, ch. 95-267; s. 133, ch. 95-418; s. 1, ch. 96-215; s. 14, ch. 96-268; s. 14, ch. 96-402; s. 271, ch. 96-406; s. 1041, ch. 97-103; s. 43, ch. 97-264; s. 257, ch. 98-166; s. 31, ch. 98-403; s. 4, ch. 99-168; s. 10, ch. 99-193; s. 41, ch. 2000-139; s. 3, ch. 2000-188; s. 1, ch. 2000-217; s. 1, ch. 2001-53; s. 1, ch. 2003-127; s. 7, ch. 2006-86; s. 2, ch. 2008-90; s. 5, ch. 2008-245; s. 3, ch. 2009-43; s. 1, ch. 2012-155; s. 4, ch. 2012-178; s. 6, ch. 2013-15; s. 4, ch. 2013-219; ss. 5, 50, ch. 2014-224.

Note.—Former ss. 828.041, 827.07(3), (4), (9), (13); s. 415.504.





# Florida Statutes Pertaining to Special Programs

## Chapter 381

### Public Health: General Provisions

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**381.0056 School health services program.—**

(1) This section may be cited as the “School Health Services Act.”

(2) As used in this section:

(a) “Emergency health needs” means onsite management and aid for illness or injury pending the student’s return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) “Entity” or “health care entity” means a unit of local government or a political subdivision of the state; a hospital licensed under chapter 395; a health maintenance organization certified under chapter 641; a health insurer authorized under the Florida Insurance Code; a community health center; a migrant health center; a federally qualified health center; an organization that meets the requirements for nonprofit status under s. 501(c)(3) of the Internal Revenue Code; a private industry or business; or a philanthropic foundation that agrees to participate in a public-private partnership with a county health department, local school district, or school in the delivery of school health services, and agrees to the terms and conditions for the delivery of such services as required by this section and as documented in the local school health services plan.

(c) “Invasive screening” means any screening procedure in which the skin or any body orifice is penetrated.

(d) “Physical examination” means a thorough evaluation of the health status of an individual.

(e) “School health services plan” means the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.

(f) “Screening” means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

(3) The Department of Health shall have the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. However, the principal of each school shall have immediate supervisory authority over the health personnel working in the school.

(4)(a) Each county health department shall develop, jointly with the district school board

and the local school health advisory committee, a school health services plan; and the plan must include, at a minimum, provisions for:

1. Health appraisal;
  2. Records review;
  3. Nurse assessment;
  4. Nutrition assessment;
  5. A preventive dental program;
  6. Vision screening;
  7. Hearing screening;
  8. Scoliosis screening;
  9. Growth and development screening;
  10. Health counseling;
  11. Referral and followup of suspected or confirmed health problems by the local county health department;
  12. Meeting emergency health needs in each school;
  13. County health department personnel to assist school personnel in health education curriculum development;
  14. Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;
  15. Consultation with a student’s parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;
  16. Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 1002.22;
  17. Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs; and
  18. Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan.
- (b) Each school health advisory committee must, at a minimum, include members who represent the eight component areas of the Coordinated School Health model as defined by the Centers for Disease Control and Prevention. School health advisory committees are encouraged to address the eight components of the Coordinated School Health model in the school district’s school wellness policy pursuant to s. 1003.453.

(5) A nonpublic school may request to participate in the school health services program. A nonpublic school voluntarily participating in the school health services program shall:

(a) Cooperate with the county health department and district school board in the development of the cooperative health services plan;

(b) Make available adequate physical facilities for health services;

(c) Provide inservice health training to school personnel;

(d) Cooperate with public health personnel in the implementation of the school health services plan;

(e) Be subject to health service program reviews by the Department of Health and the Department of Education;

(f) At the beginning of each school year, provide parents and guardians with information concerning ways that they can help their children to be physically active and to eat healthful foods; and

(g) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the school will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(6) The district school board shall:

(a) Include health services and health education as part of the comprehensive plan for the school district;

(b) Provide inservice health training for school personnel;

(c) Make available adequate physical facilities for health services;

(d) At the beginning of each school year, provide parents and guardians with information concerning ways that they can help their children to be physically active and to eat healthful foods; and

(e) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for

such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(7) The Department of Health, in cooperation with the Department of Education, may adopt rules necessary to implement this section. The rules may include standards and requirements for developing school health services plans, conducting school health screening, meeting emergency health needs, maintaining school health records, and coordinating with education programs for exceptional students.

(8) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

(9) Any health care entity that provides school health services under contract with the department pursuant to a school health services plan developed under this section, and as part of a school nurse services public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of the state solely for the purpose of limiting liability pursuant to s. 768.28(5). The limitations on tort actions contained in s. 768.28(5) shall apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the department. The contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the department. The Legislature intends that insurance be purchased by entities, or by partnerships on behalf of the entity, to cover all liability claims, and under no circumstances shall the state or the department be responsible for payment of any claims or defense costs for claims brought against the entity or its subcontractor for services performed under the contract with the department. This subsection does not preclude consideration by the Legislature for payment by the state of any claims bill involving an entity contracting with the department pursuant to this section.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 9, ch. 74-356; s. 1, ch. 77-174; s. 2, ch. 78-245; s. 15, ch. 79-288; s. 1, ch. 81-18; s. 21, ch. 84-317; s. 50, ch. 85-81; s. 1, ch. 90-344; s. 812, ch. 95-148; s. 101, ch. 97-101; s. 48, ch. 97-237; s. 28, ch. 99-5; s. 1, ch. 99-214; s. 6, ch. 2000-242; s. 5, ch. 2001-53; s. 976, ch. 2002-387; s. 20, ch. 2006-301; s. 27, ch. 2012-184.

Note.—Former s. 402.32.

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**381.88 Emergency allergy treatment.—**

(1) This section and s. 381.885 may be cited as the “Emergency Allergy Treatment Act.”

(2) As used in this section and s. 381.885, the term:

(a) “Administer” means to directly apply an epinephrine auto-injector to the body of an individual.

(b) “Authorized entity” means an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas. However, a school as described in s. 1002.20(3)(i) is an authorized entity for the purposes of subsection (5) only.

(c) “Authorized health care practitioner” means a licensed practitioner authorized by the laws of the state to prescribe drugs.

(d) “Department” means the Department of Health.

(e) “Epinephrine auto-injector” means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(f) “Self-administration” means an individual’s discretionary administration of an epinephrine auto-injector on herself or himself.

(3) The purpose of this section is to provide for the certification of persons who administer lifesaving treatment to persons who have severe allergic reactions when a physician is not immediately available.

(4) The department may:

(a) Adopt rules necessary to administer this section.

(b) Conduct educational training programs as described in subsection (5) and approve programs conducted by other persons or governmental agencies.

(c) Issue and renew certificates of training to persons who have complied with this section and

the rules adopted by the department.

(d) Collect fees necessary to administer this section.

(5) Educational training programs required by this section must be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the department. The curriculum must include at a minimum:

(a) Recognition of the symptoms of systemic reactions to food, insect stings, and other allergens; and

(b) The proper administration of an epinephrine auto-injector.

(6) A certificate of training may be given to a person who:

(a) Is 18 years of age or older;

(b) Has, or reasonably expects to have, responsibility for or contact with at least one other person as a result of his or her occupational or volunteer status, including, but not limited to, a camp counselor, scout leader, school teacher, forest ranger, tour guide, or chaperone; and

(c) Has successfully completed an educational training program as described in subsection (5).

(7) A person who successfully completes an educational training program may obtain a certificate upon payment of an application fee of \$25.

(8) A certificate issued pursuant to this section authorizes the holder to receive, upon presentation of the certificate, a prescription for epinephrine auto-injectors from an authorized health care practitioner or the department. The certificate also authorizes the holder, in an emergency situation when a physician is not immediately available, to possess and administer a prescribed epinephrine auto-injector to a person experiencing a severe allergic reaction.

History.—s. 1, ch. 91-297; s. 816, ch. 95-148; s. 52, ch. 97-237; s. 1, ch. 2014-141.

Note.—Former s. 402.60.

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**381.885 Epinephrine auto-injectors; emergency administration.—**

(1) PRESCRIBING TO AN AUTHORIZED ENTITY.—An authorized health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

(2) MAINTENANCE OF SUPPLY.—An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors must be stored in accordance with the epinephrine auto-injector’s instructions

for use and with any additional requirements that may be established by the department. An authorized entity shall designate employees or agents who hold a certificate issued pursuant to s. 381.88 to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

(3) USE OF EPINEPHRINE AUTO-INJECTORS.—An individual who holds a certificate issued pursuant to s. 381.88 may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors prescribed pursuant to subsection (1) to:

(a) Provide an epinephrine auto-injector to a person who the certified individual in good faith

believes is experiencing a severe allergic reaction for that person's immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(b) Administer an epinephrine auto-injector to a person who the certified individual in good faith believes is experiencing a severe allergic reaction, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(4) **EXPANDED AVAILABILITY.**—An authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant to a prescription issued by an authorized health care practitioner in accordance with this section may make the auto-injectors available to individuals other than certified individuals identified in subsection (3) who may administer the auto-injector to a person believed in good faith to be experiencing a severe allergic reaction if the epinephrine auto-injectors are stored in a locked, secure container and are made available only upon remote authorization by an authorized health care practitioner after consultation with the authorized health care practitioner by audio, televideo, or other similar means of electronic communication. Consultation with an

authorized health care practitioner for this purpose is not considered the practice of telemedicine or otherwise construed as violating any law or rule regulating the authorized health care practitioner's professional practice.

(5) **IMMUNITY FROM LIABILITY.**—Any person, as defined under s. 1.01, including an authorized health care practitioner, a dispensing health care practitioner or pharmacist, an individual trainer under s. 381.88(5), and a person certified pursuant to s. 381.88(7), who possesses, administers, or stores an epinephrine auto-injector in compliance with this act, and an uncertified person who administers an epinephrine auto-injector as authorized under subsection (4) in compliance with this act, is afforded the civil liability immunity protections provided under s. 768.13.

History.—s. 2, ch. 2014-141.



Florida Statutes Pertaining to Special Programs  
Chapter 402  
Health and Human Services; Miscellaneous Provisions; Etc.

**402.22 Education program for students who reside in residential care facilities operated by the Department of Children and Families or the Agency for Persons with Disabilities.—**

(1)(a) The Legislature recognizes that the Department of Children and Families and the Agency for Persons with Disabilities have under their residential care students with critical problems of physical impairment, emotional disturbance, mental impairment, and learning impairment.

(b) The Legislature recognizes the vital role of education in the rehabilitation of such students. It is the intent of the Legislature that all such students benefit from educational services and receive such services.

(c) It is the intent of the Legislature that educational services be coordinated with appropriate and existing diagnostic and evaluative, social, followup, and other therapeutic services of the department and agency so that the effect of the total rehabilitation process is maximized.

(d) It is the intent of the Legislature that, as educational programs for students in residential care facilities are implemented by the district school board, educational personnel in the residential care facilities who meet the qualifications for employees of the district school board be employed by the district school board.

(2) District school boards shall establish educational programs for all students ages 5 through 18 under the residential care of the Department of Children and Families and the Agency for Persons with Disabilities, and may provide for students below age 3 as provided for in s. 1003.21(1)(e). Funding of such programs shall be pursuant to s. 1011.62.

(3) Notwithstanding any provisions of chapters 39, 393, 394, and 397 to the contrary, the services of the Department of Children and Families and the Agency for Persons with Disabilities and those of the Department of Education and district school boards shall be mutually supportive and complementary of each other. The education programs provided by the district school board shall meet the standards prescribed by the State Board of Education and the district school board. Decisions regarding the design and delivery of

department or agency treatment or habilitative services shall be made by interdisciplinary teams of professional and paraprofessional staff of which appropriate district school system administrative and instructional personnel shall be invited to be participating members. The requirements for maintenance of confidentiality as prescribed in chapters 39, 393, 394, and 397 shall be applied to information used by such interdisciplinary teams, and such information shall be exempt from the provisions of ss. 119.07(1) and 286.011.

(4) Students age 18 and under who are under the residential care of the Department of Children and Families or the Agency for Persons with Disabilities and who receive an education program shall be calculated as full-time equivalent student membership in the appropriate cost factor as provided for in s. 1011.62(1)(c). Residential care facilities shall include, but not be limited to, developmental disabilities centers and state mental health facilities. All students shall receive their education program from the district school system, and funding shall be allocated through the Florida Education Finance Program for the district school system.

(5) Instructional and special educational services that are provided to clients with mental illness or developmental disabilities of the department's or agency's residential care facilities by local school districts shall not be less than 180 days or 900 hours; however, the 900 hours may be distributed over a 12-month period.

(6) Notwithstanding the provisions of s. 1001.42(4)(n), the educational program at the Marianna Sunland Center in Jackson County shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public educational agencies. The annual state allocation to any such agency shall be computed pursuant to s. 1011.62(1), (2), and (6) and allocated in the amount that would have been provided the local school district in which the residential facility is located.

History.—ss. 1, 2, ch. 71-350; s. 4, ch. 79-184; s. 1, ch. 80-143; s. 4, ch. 80-240; ss. 1, 2, ch. 81-272; s. 2, ch. 82-153; s. 57, ch. 83-218; s. 16, ch. 85-109; s. 24, ch. 89-308; s. 1, ch. 90-7; ss. 7, 9, ch. 90-208; s. 26, ch. 93-39; s. 78, ch. 95-143; s. 238, ch. 96-406; s. 66, ch. 97-190; s. 5, ch. 98-186; s. 988, ch. 2002-387; s. 11, ch. 2006-27; s. 49, ch. 2006-227; s. 14, ch. 2008-244; s. 49, ch. 2013-18; s. 141, ch. 2014-19.



# Florida Statutes Pertaining to Special Programs

## Chapter 409

### Social and Economic Assistance

#### **409.1754 Sexually exploited children; screening and assessment; training; case management; task forces.—**

##### **(1) SCREENING AND ASSESSMENT.—**

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children when developing or adopting initial screening and assessment instruments. Initial screening and assessment instruments shall assess the appropriate placement of a sexually exploited child, including whether placement in a safe house or safe foster home is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the child running away.
2. Risk of the child recruiting other children into the commercial sex trade.
3. Level of the child's attachment to his or her exploiter.
4. Level and type of trauma that the child has endured.
5. Nature of the child's interactions with law enforcement.
6. Length of time that the child was sexually exploited.
7. Extent of any substance abuse by the child.

(b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use.

(d) The department, the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

##### **(2) TRAINING; CASE MANAGEMENT; TASK FORCES.—**

(a)1. The department and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to have been sexually exploited are assigned to child protective investigators and case managers who have specialized intensive training in handling cases in-

volving a sexually exploited child. The department and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a sexually exploited child.

2. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving sexually exploited children.

(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings relating to services provided for sexually exploited children to ensure that all parties possess relevant information and services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.

(c)1. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with sexually exploited children.

2. Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a sexually exploited child.

##### **(3) LOCAL RESPONSE TO HUMAN TRAFFICKING; TRAINING; TASK FORCE.—**

(a) To the extent that funds are available, the local regional director may provide training to

local law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties. Training shall address the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. The local circuit administrator may contract with a not-for-profit agency with experience working with sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity in their service area that is involved in coordinating responses to address human trafficking or sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall initiate one.

History.—s. 1, ch. 2014-161.

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**409.9071 Medicaid provider agreements for school districts certifying state match.—**

(1) The agency shall reimburse school-based services as provided in former s. 236.0812 pursuant to the rehabilitative services option provided under 42 U.S.C. s. 1396d(a)(13). For purposes of this section, billing agent consulting services shall be considered billing agent services, as that term is used in s. 409.913(10), and, as such, payments to such persons shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. This provision shall not restrict privatization of Medicaid school-based services. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures and shall allow for certification of state and local education funds which have been provided for school-based services as specified in s. 1011.70 and authorized by a physician's order where required by federal Medicaid law. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and part B or part H of the Individuals with Disabilities Education Act (IDEA), or the exceptional student education program, or who have an individualized educational plan.

(2) School districts that wish to enroll as Medicaid providers and that certify state match in order to receive federal Medicaid reimbursements for services, pursuant to subsection (1), shall agree to:

(a) Verify Medicaid eligibility. The agency and the Department of Education shall work cooperatively to facilitate local school districts' verification of Medicaid eligibility.

(b) Develop and maintain the financial and individual education plan records needed to document the appropriate use of state and federal Medicaid funds.

(c) Comply with all state and federal Medicaid laws, rules, regulations, and policies, including, but not limited to, those related to the confidentiality

of records and freedom of choice of providers.

(d) Be responsible for reimbursing the cost of any state or federal disallowance that results from failure to comply with state or federal Medicaid laws, rules, or regulations.

(3) State and local education dollars certified as state Medicaid match may be capped based on the maximum amount of federal participation budgeted for this purpose. Unless otherwise specifically provided for in the General Appropriations Act, certification of such funds shall be reduced proportionately to other voluntary Medicaid programs if a cap is established by the federal Medicaid agency that reduces federal Medicaid funding.

(4) Within 90 days after a school district applies to enroll as a Medicaid provider under the certified match program, the agency may conduct a review to ensure that the school district has the capability to comply with the requirements in subsection (2). A finding by the agency that a school district has the capability to comply with the requirements in subsection (2) shall not relieve a school district of its responsibility for correcting any deficiencies or for reimbursing the cost of the state or federal disallowances identified pursuant to any subsequent state or federal audits.

(5) The agency shall develop a reimbursement schedule specific to school-based services which is based on the federal rehabilitative services option.

(6) Retroactive reimbursements for services as specified in former s. 236.0812 as of July 1, 1996, including reimbursement for the 1995-1996 and 1996-1997 school years, are subject to federal approval.

(7) The agency's and school districts' confidentiality is waived. They shall provide any information or documents relating to this section to the Medicaid Fraud Control Unit in the Department of Legal Affairs, upon request pursuant to its authority under s. 409.920.

History.—s. 2, ch. 95-336; s. 5, ch. 96-199; s. 3, ch. 96-294; s. 2, ch. 97-168; ss. 13, 18, ch. 97-263; s. 5, ch. 2000-163; ss. 994, 995, ch. 2002-387; s. 20, ch. 2004-344; s. 67, ch. 2005-2.

**409.908 Reimbursement of Medicaid providers.**—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(1) Reimbursement to hospitals licensed under part I of chapter 395 must be made prospectively or on the basis of negotiation.

(a) Reimbursement for inpatient care is limited as provided in s. 409.905(5), except as otherwise provided in this subsection.

1. If authorized by the General Appropriations Act, the agency may modify reimbursement for specific types of services or diagnoses, recipient ages, and hospital provider types.

2. The agency may establish an alternative methodology to the DRG-based prospective payment system to set reimbursement rates for:

- a. State-owned psychiatric hospitals.
- b. Newborn hearing screening services.
- c. Transplant services for which the agency has established a global fee.

d. Recipients who have tuberculosis that is resistant to therapy who are in need of long-term, hospital-based treatment pursuant to s. 392.62.

3. The agency shall modify reimbursement according to other methodologies recognized in the General Appropriations Act.

The agency may receive funds from state

entities, including, but not limited to, the Department of Health, local governments, and other local political subdivisions, for the purpose of making special exception payments, including federal matching funds, through the Medicaid inpatient reimbursement methodologies. Funds received for this purpose shall be separately accounted for and may not be commingled with other state or local funds in any manner. The agency may certify all local governmental funds used as state match under Title XIX of the Social Security Act, to the extent and in the manner authorized under the General Appropriations Act and pursuant to an agreement between the agency and the local governmental entity. In order for the agency to certify such local governmental funds, a local governmental entity must submit a final, executed letter of agreement to the agency, which must be received by October 1 of each fiscal year and provide the total amount of local governmental funds authorized by the entity for that fiscal year under this paragraph, paragraph (b), or the General Appropriations Act. The local governmental entity shall use a certification form prescribed by the agency. At a minimum, the certification form must identify the amount being certified and describe the relationship between the certifying local governmental entity and the local health care provider. The agency shall prepare an annual statement of impact which documents the specific activities undertaken during the previous fiscal year pursuant to this paragraph, to be submitted to the Legislature annually by January 1.

(b) Reimbursement for hospital outpatient care is limited to \$1,500 per state fiscal year per recipient, except for:

1. Such care provided to a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

2. Renal dialysis services.

3. Other exceptions made by the agency.

The agency is authorized to receive funds from state entities, including, but not limited to, the Department of Health, the Board of Governors of the State University System, local governments, and other local political subdivisions, for the purpose of making payments, including federal matching funds, through the Medicaid outpatient reimbursement methodologies. Funds received from state entities and local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner.

(c) Hospitals that provide services to a disproportionate share of low-income Medicaid recipients, or that participate in the regional perinatal intensive care center program under chapter 383, or that participate in the statutory teaching hospital disproportionate share program may receive additional reimbursement. The total



amount of payment for disproportionate share hospitals shall be fixed by the General Appropriations Act. The computation of these payments must be made in compliance with all federal regulations and the methodologies described in ss. 409.911 and 409.9113.

(d) The agency is authorized to limit inflationary increases for outpatient hospital services as directed by the General Appropriations Act.

(2)(a)1. Reimbursement to nursing homes licensed under part II of chapter 400 and state-owned-and-operated intermediate care facilities for the developmentally disabled licensed under part VIII of chapter 400 must be made prospectively.

2. Unless otherwise limited or directed in the General Appropriations Act, reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment, and reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement shall be determined by averaging the nursing home payments in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the agency. Medicaid reimbursement may be extended by the agency beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(b) Subject to any limitations or directions in the General Appropriations Act, the agency shall establish and implement a state Title XIX Long-Term Care Reimbursement Plan for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such

care.

1. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent may be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider target.

2. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, staff development, the staffing coordinator, and the administrative portion of the minimum data set and care plan coordinators. The direct care subcomponent also includes medically necessary dental care, vision care, hearing care, and podiatric care.

3. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. Costs may not be allocated directly or indirectly to the direct care subcomponent from a home office or management company.

4. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

5. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

- (a) Advanced registered nurse practitioner services.
- (b) Birth center services.
- (c) Chiropractic services.
- (d) Community mental health services.
- (e) Dental services, including oral and maxillofacial surgery.
- (f) Durable medical equipment.
- (g) Hearing services.
- (h) Occupational therapy for Medicaid recipients under age 21.
- (i) Optometric services.
- (j) Orthodontic services.
- (k) Personal care for Medicaid recipients under age 21.
- (l) Physical therapy for Medicaid recipients under age 21.
- (m) Physician assistant services.
- (n) Podiatric services.
- (o) Portable X-ray services.
- (p) Private-duty nursing for Medicaid recipients under age 21.
- (q) Registered nurse first assistant services.
- (r) Respiratory therapy for Medicaid recipients under age 21.
- (s) Speech therapy for Medicaid recipients under age 21.
- (t) Visual services.

(4) Subject to any limitations or directions provided for in the General Appropriations Act, alternative health plans, health maintenance organizations, and prepaid health plans shall be reimbursed a fixed, prepaid amount negotiated, or competitively bid pursuant to s. 287.057, by the agency and prospectively paid to the provider monthly for each Medicaid recipient enrolled. The amount may not exceed the average amount the agency determines it would have paid, based on claims experience, for recipients in the same or similar category of eligibility. The agency shall calculate capitation rates on a regional basis and, beginning September 1, 1995, shall include age-band differentials in such calculations.

(5) An ambulatory surgical center shall be reimbursed the lesser of the amount billed by the provider or the Medicare-established allowable

amount for the facility.

(6) A provider of early and periodic screening, diagnosis, and treatment services to Medicaid recipients who are children under age 21 shall be reimbursed using an all-inclusive rate stipulated in a fee schedule established by the agency. A provider of the visual, dental, and hearing components of such services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency.

(7) A provider of family planning services shall be reimbursed the lesser of the amount billed by the provider or an all-inclusive amount per type of visit for physicians and advanced registered nurse practitioners, as established by the agency in a fee schedule.

(8) A provider of home-based or community-based services rendered pursuant to a federally approved waiver shall be reimbursed based on an established or negotiated rate for each service. These rates shall be established according to an analysis of the expenditure history and prospective budget developed by each contract provider participating in the waiver program, or under any other methodology adopted by the agency and approved by the Federal Government in accordance with the waiver. Privately owned and operated community-based residential facilities which meet agency requirements and which formerly received Medicaid reimbursement for the optional intermediate care facility for the intellectually disabled service may participate in the developmental services waiver as part of a home-and-community-based continuum of care for Medicaid recipients who receive waiver services.

(9) A provider of home health care services or of medical supplies and appliances shall be reimbursed on the basis of competitive bidding or for the lesser of the amount billed by the provider or the agency's established maximum allowable amount, except that, in the case of the rental of durable medical equipment, the total rental payments may not exceed the purchase price of the equipment over its expected useful life or the agency's established maximum allowable amount, whichever amount is less.

(10) A hospice shall be reimbursed through a prospective system for each Medicaid hospice patient at Medicaid rates using the methodology established for hospice reimbursement pursuant to Title XVIII of the federal Social Security Act.

(11) A provider of independent laboratory services shall be reimbursed on the basis of competitive bidding or for the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency.

(12)(a) A physician shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by

the agency.

(b) The agency shall adopt a fee schedule, subject to any limitations or directions provided for in the General Appropriations Act, based on a resource-based relative value scale for pricing Medicaid physician services. Under this fee schedule, physicians shall be paid a dollar amount for each service based on the average resources required to provide the service, including, but not limited to, estimates of average physician time and effort, practice expense, and the costs of professional liability insurance. The fee schedule shall provide increased reimbursement for preventive and primary care services and lowered reimbursement for specialty services by using at least two conversion factors, one for cognitive services and another for procedural services. The fee schedule shall not increase total Medicaid physician expenditures unless moneys are available. The Agency for Health Care Administration shall seek the advice of a 16-member advisory panel in formulating and adopting the fee schedule. The panel shall consist of Medicaid physicians licensed under chapters 458 and 459 and shall be composed of 50 percent primary care physicians and 50 percent specialty care physicians.

(c) Notwithstanding paragraph (b), reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least \$1,500 per delivery for a pregnant woman with low medical risk and at least \$2,000 per delivery for a pregnant woman with high medical risk. However, reimbursement to physicians working in Regional Perinatal Intensive Care Centers designated pursuant to chapter 383, for services to certain pregnant Medicaid recipients with a high medical risk, may be made according to obstetrical care and neonatal care groupings and rates established by the agency. Nurse midwives licensed under part I of chapter 464 or midwives licensed under chapter 467 shall be reimbursed at no less than 80 percent of the low medical risk fee. The agency shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman and shall not pay more based solely on the fact that a caesarean section was performed, rather than a vaginal delivery. The agency shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed. The Department of Health shall adopt rules for appropriate insurance coverage for midwives licensed under chapter 467. Prior to the issuance and renewal of an active license, or reactivation of an inactive license for midwives licensed under chapter 467, such licensees shall submit proof of coverage with each application.

(13) Medicare premiums for persons eligible for both Medicare and Medicaid coverage shall be paid at the rates established by Title XVIII of the

Social Security Act. For Medicare services rendered to Medicaid-eligible persons, Medicaid shall pay Medicare deductibles and coinsurance as follows:

(a) Medicaid's financial obligation for deductibles and coinsurance payments shall be based on Medicare allowable fees, not on a provider's billed charges.

(b) Medicaid will pay no portion of Medicare deductibles and coinsurance when payment that Medicare has made for the service equals or exceeds what Medicaid would have paid if it had been the sole payor. The combined payment of Medicare and Medicaid shall not exceed the amount Medicaid would have paid had it been the sole payor. The Legislature finds that there has been confusion regarding the reimbursement for services rendered to dually eligible Medicare beneficiaries. Accordingly, the Legislature clarifies that it has always been the intent of the Legislature before and after 1991 that, in reimbursing in accordance with fees established by Title XVIII for premiums, deductibles, and coinsurance for Medicare services rendered by physicians to Medicaid eligible persons, physicians be reimbursed at the lesser of the amount billed by the physician or the Medicaid maximum allowable fee established by the Agency for Health Care Administration, as is permitted by federal law. It has never been the intent of the Legislature with regard to such services rendered by physicians that Medicaid be required to provide any payment for deductibles, coinsurance, or copayments for Medicare cost sharing, or any expenses incurred relating thereto, in excess of the payment amount provided for under the State Medicaid plan for such service. This payment methodology is applicable even in those situations in which the payment for Medicare cost sharing for a qualified Medicare beneficiary with respect to an item or service is reduced or eliminated. This expression of the Legislature is in clarification of existing law and shall apply to payment for, and with respect to provider agreements with respect to, items or services furnished on or after the effective date of this act. This paragraph applies to payment by Medicaid for items and services furnished before the effective date of this act if such payment is the subject of a lawsuit that is based on the provisions of this section, and that is pending as of, or is initiated after, the effective date of this act.

(c) Notwithstanding paragraphs (a) and (b):

1. Medicaid payments for Nursing Home Medicare part A coinsurance are limited to the Medicaid nursing home per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. The Medicaid per diem rate shall be the rate in effect for the dates of service of the crossover claims and may not be subsequently adjusted due to subsequent per diem rate adjustments.

2. Medicaid shall pay all deductibles and

coinsurance for Medicare-eligible recipients receiving freestanding end stage renal dialysis center services.

3. Medicaid payments for general and specialty hospital inpatient services are limited to the Medicare deductible and coinsurance per spell of illness. Medicaid payments for hospital Medicare Part A coinsurance shall be limited to the Medicaid hospital per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. Medicaid payments for coinsurance shall be limited to the Medicaid per diem rate in effect for the dates of service of the crossover claims and may not be subsequently adjusted due to subsequent per diem adjustments.

4. Medicaid shall pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to chapter 401.

5. Medicaid shall pay all deductibles and coinsurance for portable X-ray Medicare Part B services provided in a nursing home.

(14) A provider of prescribed drugs shall be reimbursed the least of the amount billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency, plus a dispensing fee. The Medicaid maximum allowable fee for ingredient cost must be based on the lowest of: the average wholesale price (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC) plus 1.5 percent, the federal upper limit (FUL), the state maximum allowable cost (SMAC), or the usual and customary (UAC) charge billed by the provider.

(a) Medicaid providers must dispense generic drugs if available at lower cost and the agency has not determined that the branded product is more cost-effective, unless the prescriber has requested and received approval to require the branded product.

(b) The agency shall implement a variable dispensing fee for prescribed medicines while ensuring continued access for Medicaid recipients. The variable dispensing fee may be based upon, but not limited to, either or both the volume of prescriptions dispensed by a specific pharmacy provider, the volume of prescriptions dispensed to an individual recipient, and dispensing of preferred-drug-list products.

(c) The agency may increase the pharmacy dispensing fee authorized by statute and in the General Appropriations Act by \$0.50 for the dispensing of a Medicaid preferred-drug-list product and reduce the pharmacy dispensing fee by \$0.50 for the dispensing of a Medicaid product that is not included on the preferred drug list.

(d) The agency may establish a supplemental pharmaceutical dispensing fee to be paid to providers returning unused unit-dose packaged medications to stock and crediting the Medicaid program

for the ingredient cost of those medications if the ingredient costs to be credited exceed the value of the supplemental dispensing fee.

(e) The agency may limit reimbursement for prescribed medicine in order to comply with any limitations or directions provided in the General Appropriations Act, which may include implementing a prospective or concurrent utilization review program.

(15) A provider of primary care case management services rendered pursuant to a federally approved waiver shall be reimbursed by payment of a fixed, prepaid monthly sum for each Medicaid recipient enrolled with the provider.

(16) A provider of rural health clinic services and federally qualified health center services shall be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations.

(17) A provider of targeted case management services shall be reimbursed pursuant to an established fee, except where the Federal Government requires a public provider be reimbursed on the basis of average actual costs.

(18) Unless otherwise provided for in the General Appropriations Act, a provider of transportation services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency, except when the agency has entered into a direct contract with the provider, or with a community transportation coordinator, for the provision of an all-inclusive service, or when services are provided pursuant to an agreement negotiated between the agency and the provider. The agency, as provided for in s. 427.0135, shall purchase transportation services through the community coordinated transportation system, if available, unless the agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission. The agency may then contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards. Nothing in this subsection shall be construed to limit or preclude the agency from contracting for services using a prepaid capitation rate or from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, prior authorization, competitive bidding, increased use of mass transit, or any other mechanism that the agency considers efficient and effective for the purchase of services on behalf of Medicaid clients, including implementing a transportation eligibility process. The agency shall not be required to contract with any community transportation coordinator or transportation operator that has been determined by the agency, the Department of Legal Affairs Medicaid Fraud Control Unit, or any other state or federal agency to have engaged in any

abusive or fraudulent billing activities. The agency is authorized to competitively procure transportation services or make other changes necessary to secure approval of federal waivers needed to permit federal financing of Medicaid transportation services at the service matching rate rather than the administrative matching rate. Notwithstanding chapter 427, the agency is authorized to continue contracting for Medicaid nonemergency transportation services in agency service area 11 with managed care plans that were under contract for those services before July 1, 2004.

(19) County health department services shall be reimbursed a rate per visit based on total reasonable costs of the clinic, as determined by the agency in accordance with federal regulations under the authority of 42 C.F.R. s. 431.615.

(20) A renal dialysis facility that provides dialysis services under s. 409.906(9) must be reimbursed the lesser of the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less.

(21) The agency shall reimburse school districts which certify the state match pursuant to ss. 409.9071 and 1011.70 for the federal portion of the school district's allowable costs to deliver the services, based on the reimbursement schedule. The school district shall determine the costs for delivering services as authorized in ss. 409.9071 and 1011.70 for which the state match will be certified. Reimbursement of school-based providers is contingent on such providers being enrolled as Medicaid providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, are eligible for reimbursement for services that are provided on school premises. Any employee of the school district who has been fingerprinted and has received a criminal background check in accordance with Department of Education rules and guidelines shall be exempt from any agency requirements relating to criminal background checks.

(22) The agency shall request and implement Medicaid waivers from the federal Health Care Financing Administration to advance and treat a portion of the Medicaid nursing home per diem as capital for creating and operating a risk-retention group for self-insurance purposes, consistent with federal and state laws and rules.

(23)(a) The agency shall establish rates at a level that ensures no increase in statewide expenditures resulting from a change in unit costs effective July 1, 2011. Reimbursement rates shall be as provided in the General Appropriations Act.

(b) Base rate reimbursement under a diagnosis-related group payment methodology shall be provided in the General Appropriations Act.

(c) This subsection applies to the following provider types:

1. Inpatient hospitals.
2. Outpatient hospitals.
3. Nursing homes.
4. County health departments.
5. Community intermediate care facilities for the developmentally disabled.
6. Prepaid health plans.

(d) The agency shall apply the effect of this subsection to the reimbursement rates for nursing home diversion programs.

(24) If a provider fails to notify the agency within 5 business days after suspension or disenrollment from Medicare, sanctions may be imposed pursuant to this chapter, and the provider may be required to return funds paid to the provider during the period of time that the provider was suspended or disenrolled as a Medicare provider.

History.—s. 37, ch. 91-282; s. 17, ch. 92-179; s. 1, ch. 92-311; s. 47, ch. 93-129; s. 28, ch. 93-211; s. 2, ch. 94-299; s. 4, ch. 94-317; s. 2, ch. 95-291; s. 3, ch. 95-336; s. 5, ch. 95-393; s. 6, ch. 96-417; s. 3, ch. 97-168; s. 65, ch. 97-237; s. 1, ch. 97-243; s. 11, ch. 97-260; ss. 14, 19, ch. 97-263; s. 4, ch. 97-309; ss. 13, 38, ch. 98-46; s. 236, ch. 98-166; s. 28, ch. 98-191; ss. 17, 30, ch. 2000-163; s. 19, ch. 2000-209; s. 54, ch. 2000-256; s. 110, ch. 2000-318; s. 49, ch. 2001-45; s. 51, ch. 2001-62; s. 5, ch. 2001-104; s. 4, ch. 2001-222; s. 7, ch. 2001-377; s. 16, ch. 2002-223; s. 996, ch. 2002-387; s. 22, ch. 2002-400; s. 11, ch. 2003-405; s. 53, ch. 2004-5; s. 12, ch. 2004-270; s. 21, ch. 2004-344; s. 68, ch. 2005-2; s. 9, ch. 2005-60; s. 17, ch. 2005-133; s. 13, ch. 2006-28; s. 53, ch. 2006-227; s. 96, ch. 2007-5; s. 50, ch. 2007-217; s. 3, ch. 2007-331; s. 5, ch. 2008-143; s. 1, ch. 2008-203; s. 93, ch. 2010-5; s. 7, ch. 2010-156; s. 5, ch. 2011-61; s. 12, ch. 2011-135; s. 6, ch. 2012-33; s. 4, ch. 2013-48; s. 14, ch. 2013-162.



# Florida Statutes Pertaining to Special Programs

## Chapter 411:

### Handicap or High-Risk Condition Prevention and Early Childhood Assistance

#### Part I, General Provisions

**411.201 Florida Prevention, Early Assistance, and Early Childhood Act; short title.**—This chapter may be cited as the “Florida Prevention, Early As-

sistance, and Early Childhood Act.”

History.—s. 1, ch. 89-379.

**411.202 Definitions.**—As used in this chapter, the term:

(1) “Assistance services” means those assessments, individualized therapies, and other medical, educational, and social services designed to enhance the environment for the high-risk or handicapped preschool child, in order to achieve optimum growth and development. Provision of such services may include monitoring and modifying the delivery of assistance services.

(2) “Case management” means those activities aimed at assessing the needs of the high-risk child and his or her family; planning and linking the service system to the child and his or her family, based on child and family outcome objectives; coordinating and monitoring service delivery; and evaluating the effect of the service delivery system.

(3) “Community-based local contractor” means any unit of county or local government, any for-profit or not-for-profit organization, or a school district.

(4) “Developmental assistance” means individualized therapies and services needed to enhance both the high-risk child’s growth and development and family functioning.

(5) “Discharge planning” means the modification of the written individual and family service plan at the time of discharge from the hospital, which plan identifies for the family of a high-risk or handicapped infant a prescription of needed medical treatments or medications, specialized evaluation needs, and necessary nonmedical and educational intervention services.

(6) “Drug-exposed child” means any child from birth to 5 years of age for whom there is documented evidence that the mother used illicit drugs or was a substance abuser, or both, during pregnancy and the child exhibits:

- (a) Abnormal growth;
- (b) Abnormal neurological patterns;
- (c) Abnormal behavior problems; or
- (d) Abnormal cognitive development.

(7) “Early assistance” means any sustained and systematic effort designed to prevent or reduce the assessed level of health, educational, biological, environmental, or social risk for a high-risk child and his or her family.

(8) “Handicapped child” means a preschool

child who is developmentally disabled, mentally handicapped, speech impaired, language impaired, deaf or hard of hearing, blind or partially sighted, physically handicapped, health impaired, or emotionally handicapped; a preschool child who has a specific learning disability; or any other child who has been classified under rules of the State Board of Education as eligible for preschool special education services, with the exception of those who are classified solely as gifted.

(9) “High-risk child” or “at-risk child” means a preschool child with one or more of the following characteristics:

(a) The child is a victim or a sibling of a victim in a confirmed or indicated report of child abuse or neglect.

(b) The child is a graduate of a perinatal intensive care unit.

(c) The child’s mother is under 18 years of age, unless the mother received necessary comprehensive maternity care and the mother and child currently receive necessary support services.

(d) The child has a developmental delay of one standard deviation below the mean in cognition, language, or physical development.

(e) The child has survived a catastrophic infectious or traumatic illness known to be associated with developmental delay.

(f) The child has survived an accident resulting in a developmental delay.

(g) The child has a parent or guardian who is developmentally disabled, severely emotionally disturbed, drug or alcohol dependent, or incarcerated and who requires assistance in meeting the child’s developmental needs.

(h) The child has no parent or guardian.

(i) The child is drug exposed.

(j) The child’s family’s income is at or below 100 percent of the federal poverty level or the child’s family’s income level impairs the development of the child.

(k) The child is a handicapped child as defined in subsection (8).

(l) The child has been placed in residential care under the custody of the state through dependency proceedings pursuant to chapter 39.

(m) The child is a member of a migrant farm-worker family.

(10) “Impact evaluation” means the provision

of evaluation information to the department on the impact of the components of the childhood pregnancy prevention public education program and an assessment of the impact of the program on a child's related sexual knowledge, attitudes, and risk-taking behavior.

(11) "Individual and family service plan" means a written individualized plan describing the developmental status of the high-risk child and the therapies and services needed to enhance both the high-risk child's growth and development and family functioning, and shall include the contents of the written individualized family service plan as defined in part H of Pub. L. No. 99-457.

(12) "Infant" or "toddler" means any child from birth to 3 years of age.

(13) "Interdisciplinary team" means a team that may include the physician, psychologist, educator, social worker, nursing staff, physical or occupational therapist, speech pathologist, parents, developmental intervention and parent support and training program director, case manager for the child and family, and others who are involved with the individual and family service plan.

(14) "Parent support and training" means a range of services for families of high-risk or handicapped preschool children, including family counseling; financial planning; agency referral; development of parent-to-parent support groups; education relating to growth and development, developmental assistance, and objective measurable skills, including abuse avoidance skills; training of parents to advocate for their child; and bereavement counseling.

(15) "Posthospital assistance services" means assessment, individual and family service planning, developmental assistance, counseling, parent education, and referrals which are delivered as needed in a home or nonhome setting, upon discharge, by a professional or paraprofessional trained for this purpose.

(16) "Prenatal" means the time period from

pregnancy to delivery.

(17) "Preschool child" means a child from birth to 5 years of age, including a child who attains 5 years of age before September 1.

(18) "Prevention" means any program, service, or sustained activity designed to eliminate or reduce high-risk conditions in pregnant women, to eliminate or ameliorate handicapping or high-risk conditions in infants, toddlers, or preschool children, or to reduce sexual activity or the risk of unwanted pregnancy in teenagers.

(19) "Preventive health care" means periodic physical examinations, immunizations, and assessments for hearing, vision, nutritional deficiencies, development of language, physical growth, small and large muscle skills, and emotional behavior, as well as age-appropriate laboratory tests.

(20) "Process evaluation" means the provision of information to the department on the breadth and scope of the childhood pregnancy prevention public education program. The evaluation must identify program areas that need modification and identify community-based local contractor strategies and procedures which are particularly effective.

(21) "Strategic plan" means a report that analyzes existing programs, services, resources, policy, and needs and sets clear and consistent direction for programs and services for high-risk pregnant women and for preschool children, with emphasis on high-risk and handicapped children, by establishing goals and child and family outcomes, and strategies to meet them.

(22) "Teen parent" means a person under 18 years of age or enrolled in school in grade 12 or below, who is pregnant, who is the father of an unborn child, or who is the parent of a child.

History.—s. 1, ch. 89-379; s. 7, ch. 90-358; s. 2, ch. 91-229; s. 1, ch. 95-321; s. 51, ch. 97-103; s. 62, ch. 2000-153.

**411.203 Continuum of comprehensive services.**—The Department of Education and the Department of Health shall utilize the continuum of prevention and early assistance services for high-risk pregnant women and for high-risk and handicapped children and their families, as outlined in this section, as a basis for the intraagency and interagency program coordination, monitoring, and analysis required in this chapter. The continuum shall be the guide for the comprehensive statewide approach for services for high-risk pregnant women and for high-risk and handicapped children and their families, and may be expanded or reduced as necessary for the enhancement of those services. Expansion or reduction of the continuum shall be determined by intraagency or interagency findings and agreement, whichever is applicable. Implementation

of the continuum shall be based upon applicable eligibility criteria, availability of resources, and interagency prioritization when programs impact both agencies, or upon single agency prioritization when programs impact only one agency. The continuum shall include, but not be limited to:

(1) EDUCATION AND AWARENESS.—

(a) Education of the public concerning, but not limited to, the causes of handicapping conditions, normal and abnormal child development, the benefits of abstinence from sexual activity, and the consequences of teenage pregnancy.

(b) Education of professionals and paraprofessionals concerning, but not limited to, the causes of handicapping conditions, normal and abnormal child development, parenting skills, the benefits of abstinence from sexual activity, and

the consequences of teenage pregnancy, through preservice and inservice training, continuing education, and required postsecondary coursework.

(2) INFORMATION AND REFERRAL.—

(a) Providing information about available services and programs to families of high-risk and handicapped children.

(b) Providing information about service options and providing technical assistance to aid families in the decisionmaking process.

(c) Directing the family to appropriate services and programs to meet identified needs.

(3) CASE MANAGEMENT.—

(a) Arranging and coordinating services and activities for high-risk pregnant women, and for high-risk children and their families, with identified service providers.

(b) Providing appropriate casework services to pregnant women and to high-risk children and their families.

(c) Advocating for pregnant women and for children and their families.

(4) SUPPORT SERVICES PRIOR TO PREGNANCY.—

(a) Basic needs, such as food, clothing, and shelter.

(b) Health education.

(c) Family planning services, on a voluntary basis.

(d) Counseling to promote a healthy, stable, and supportive family unit, to include, but not be limited to, financial planning, stress management, and educational planning.

(5) MATERNITY AND NEWBORN SERVICES.—

(a) Comprehensive prenatal care, accessible to all pregnant women and provided for high-risk pregnant women.

(b) Adoption counseling for unmarried pregnant teenagers.

(c) Nutrition services for high-risk pregnant women.

(d) Perinatal intensive care.

(e) Delivery services for high-risk pregnant women.

(f) Postpartum care.

(g) Nutrition services for lactating mothers of high-risk children.

(h) A new mother information program at the birth site, to provide an informational brochure about immunizations, normal child development, abuse avoidance and appropriate parenting strategies, family planning, and community resources and support services for all parents of newborns and to schedule Medicaid-eligible infants for a health checkup.

(i) Appropriate screenings, to include, but not be limited to, metabolic screening, sickle-cell screening, hearing screening, developmental screening, and categorical screening.

(j) Followup family planning services for high-

risk mothers and mothers of high-risk infants.

(6) HEALTH AND NUTRITION SERVICES FOR PRESCHOOL CHILDREN.—

(a) Preventive health services for all preschool children.

(b) Nutrition services for all preschool children, including, but not limited to, the Child Care Food Program and the Special Supplemental Food Program for Women, Infants, and Children.

(c) Medical care for seriously medically impaired preschool children.

(d) Cost-effective quality health care alternatives for medically involved preschool children, in or near their homes.

(7) EDUCATION, EARLY ASSISTANCE, AND RELATED SERVICES FOR HIGH-RISK CHILDREN AND THEIR FAMILIES.—

(a) Early assistance, including, but not limited to, developmental assistance programs, parent support and training programs, and appropriate followup assistance services, for handicapped and high-risk infants and their families.

(b) Special education and related services for handicapped children.

(c) Education, early assistance, and related services for high-risk children.

(8) SUPPORT SERVICES FOR ALL EXPECTANT PARENTS AND PARENTS OF HIGH-RISK CHILDREN.—

(a) Nonmedical prenatal and support services for pregnant teenagers and other high-risk pregnant women.

(b) Child care and early childhood programs, including, but not limited to, licensed child care facilities, family day care homes, therapeutic child care, Head Start, and preschool programs in public and private schools.

(c) Parent education and counseling.

(d) Transportation.

(e) Respite care, homemaker care, crisis management, and other services that allow families of high-risk children to maintain and provide quality care to their children at home.

(f) Parent support groups, such as parents as first teachers, to strengthen families and to enable families of high-risk children to better meet their needs.

(g) Utilization of the elderly, either as volunteers or paid employees, to work with high-risk children.

(h) Utilization of high school and postsecondary students as volunteers to work with high-risk children.

(9) MANAGEMENT SYSTEMS AND PROCEDURES.—

(a) Resource information systems on services and programs available for families.

(b) Registry of high-risk newborns and newborns with birth defects, which utilizes privacy safeguards for children and parents who are subjects of the registry.

(c) Local registry of preschoolers with high-risk or handicapping conditions, which utilizes privacy safeguards for children and parents who are subjects of the registry.

(d) Information sharing system among the Department of Health, the Department of Education, local education agencies, and other appropriate entities, on children eligible for services. Information may be shared when parental or guardian permission has been given for release.

(e) Well-baby insurance for preschoolers included in the family policy coverage.

(f) Evaluation, to include:

1. Establishing child-centered and family-focused goals and objectives for each element of the continuum.

2. Developing a system to report child and family outcomes and program effectiveness for

each element of the continuum.

(g) Planning for continuation of services, to include:

1. Individual and family service plan by an interdisciplinary team, for the transition from birth or the earliest point of identification of a high-risk infant or toddler into an early assistance, preschool program for 3-year-olds or 4-year-olds, or other appropriate programs.

2. Individual and family service plan by an interdisciplinary team, for the transition of a high-risk preschool child into a public or private school system.

History.—s. 1, ch. 89-379; s. 999, ch. 2002-387; s. 20, ch. 2010-210; s. 92, ch. 2012-184; s. 104, ch. 2014-17.

## Part II

### Prevention and Early Assistance

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**411.22 Legislative intent.**—The Legislature finds and declares that 50 percent of handicapping conditions in young children can be prevented, and such conditions which are not prevented can be minimized by focusing prevention efforts on high-risk pregnant women and on high-risk and handicapped preschool children and their families. The Legislature further finds that by preventing handicaps in preschool children, infant mortality and child abuse can be reduced and this state can reap substantial savings in both human potential and state funds. The Legislature finds that infant mortality, handicapping conditions in young children, and other health problems for infants and mothers are associated with teenage pregnancy and that the prevention of sexual activity and unwanted teenage pregnancy can reduce the number of at-risk children, while increasing human potential and reducing the cost of health care. The Legislature further finds that a continuum of

integrated services is needed to identify, diagnose, and treat high-risk conditions in pregnant women and in preschool children. The Legislature finds that intraagency and interagency coordination can enhance the framework of a continuum that is already in existence and that coordination of public sector and private sector prevention services can reduce infant mortality and handicapping conditions in preschool children and minimize the effects of handicapping conditions. It is the intent of the Legislature, therefore, that a continuum of efficient and cost-effective prevention and early assistance services be identified, that a plan for intraagency and interagency coordination be developed for the purpose of implementing such a continuum, and that the continuum of services be implemented as resources are made available for such implementation.

History.—s. 2, ch. 89-379; s. 8, ch. 90-358.

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**411.223 Uniform standards.**—

(1) The Department of Children and Families, in consultation with the Department of Education, shall establish a minimum set of procedures for each preschool child who receives preventive health care with state funds. Preventive health care services shall meet the minimum standards established by federal law for the Early Periodic Screening, Diagnosis, and Treatment Program and shall provide guidance on screening instruments which are appropriate for identifying health risks

and handicapping conditions in preschool children.

(2) Duplicative diagnostic and planning practices shall be eliminated to the extent possible. Diagnostic and other information necessary to provide quality services to high-risk or handicapped children shall be shared among the program offices of the Department of Children and Families, pursuant to the provisions of s. 1002.22.

History.—s. 2, ch. 89-379; s. 66, ch. 2000-139; s. 1000, ch. 2002-387; s. 216, ch. 2014-19.

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**411.224 Family support planning process.**—

The Legislature establishes a family support planning process to be used by the Department of Children and Families as the service planning process for targeted individuals, children, and families under its purview.

(1) The Department of Education shall take all appropriate and necessary steps to encourage and facilitate the implementation of the family support planning process for individuals, children, and families within its purview.

(2) To the extent possible within existing resources, the following populations must be included in the family support planning process:

(a) Children from birth to age 5 who are served by the clinic and programs of the Division of Children's Medical Services of the Department of Health.

(b) Children participating in the developmental evaluation and intervention program of the Division of Children's Medical Services of the Department of Health.

(c) Children from age 3 through age 5 who are served by the Agency for Persons with Disabilities.

(d) Children from birth through age 5 who are served by the Mental Health Program Office of the Department of Children and Families.

(e) Healthy Start participants in need of ongoing service coordination.

(f) Children from birth through age 5 who are served by the voluntary family services, protective supervision, foster care, or adoption and related services programs of the Child Care Services Program Office of the Department of Children and Families, and who are eligible for ongoing services from one or more other programs or agencies that participate in family support planning; however, children served by the voluntary family services program, where the planned length of intervention is 30 days or less, are excluded from this population.

(3) When individuals included in the target population are served by Head Start, local educa-



tion agencies, or other prevention and early intervention programs, providers must be notified and efforts made to facilitate the concerned agency's participation in family support planning.

(4) Local education agencies are encouraged to use a family support planning process for children from birth through 5 years of age who are served by the prekindergarten program for children with disabilities, in lieu of the Individual Education Plan.

(5) There must be only a single-family support plan to address the problems of the various family members unless the family requests that an individual family support plan be developed for different members of that family. The family support plan must replace individual habilitation plans for children from 3 through 5 years old who are served by the Agency for Persons with Disabilities.

(6) The family support plan at a minimum must include the following information:

(a) The family's statement of family concerns, priorities, and resources.

(b) Information related to the health, educational, economic and social needs, and overall development of the individual and the family.

(c) The outcomes that the plan is intended to achieve.

(d) Identification of the resources and services to achieve each outcome projected in the plan. These resources and services are to be provided based on availability and funding.

(7) A family support plan meeting must be held with the family to initially develop the family support plan and annually thereafter to update the plan as necessary. The family includes anyone who

has an integral role in the life of the individual or child as identified by the individual or family. The family support plan must be reviewed periodically during the year, at least at 6-month intervals, to modify and update the plan as needed. Such periodic reviews do not require a family support plan team meeting but may be accomplished through other means such as a case file review and telephone conference with the family.

(8) The initial family support plan must be developed within a 90-day period. If exceptional circumstances make it impossible to complete the evaluation activities and to hold the initial family support plan team meeting within a reasonable time period, these circumstances must be documented, and the individual or family must be notified of the reason for the delay. With the agreement of the family and the provider, services for which either the individual or the family is eligible may be initiated before the completion of the evaluation activities and the family support plan.

(9) The Department of Children and Families, the Department of Health, and the Department of Education, to the extent that funds are available, must offer technical assistance to communities to facilitate the implementation of the family support plan.

History.—s. 7, ch. 93-143; s. 196, ch. 99-8; s. 67, ch. 2000-139; s. 63, ch. 2000-158; s. 55, ch. 2006-227; s. 21, ch. 2010-161; s. 61, ch. 2013-18; s. 217, ch. 2014-19.

## Part IV

### Childhood Pregnancy Prevention Public Education Program

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**411.24 Short title.**— This part may be cited as the “Florida Education Now and Babies Later (ENABL) Act.”

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History.—s. 2, ch. 95-321.

**411.241 Legislative intent.**—The Legislature finds and declares that childhood pregnancies continue to be a serious problem in the state. Therefore, the Legislature intends to establish, through a

public-private partnership, a program to encourage children to abstain from sexual activity.

History.—s. 2, ch. 95-321.



Florida Statutes Pertaining to Special Programs  
Chapters 468 and 486  
Miscellaneous Professions and Occupations and  
Physical Therapy Practice

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**468.1105 Legislative intent.**—The sole legislative purpose for enacting this part is to ensure that every speech-language pathologist and audiologist practicing in this state meets minimum requirements for safe practice in this state. It is the legislative intent that speech-language pathologists and

audiologists who fall below minimum competencies or who otherwise present a danger to the public health and safety be prohibited from practicing in this state.

History.—ss. 1, 31, ch. 90-134; s. 21, ch. 90-341; ss. 1, 10, ch. 90-345; s. 4, ch. 91-429.

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**468.201 Short title; purpose.**—

(1) This act shall be known and may be cited as the “Occupational Therapy Practice Act.”

(2) It is the purpose of this act to provide for the regulation of persons offering occupational therapy services to the public in order to:

(a) Safeguard the public health, safety, and welfare.

(b) Protect the public from being misled by incompetent, unscrupulous, and unauthorized

persons.

(c) Assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants.

(d) Assure the availability of occupational therapy services of high quality to persons in need of such services.

History.—ss. 1, 2, ch. 75-179; s. 2, ch. 81-318; ss. 12, 13, ch. 84-4; s. 4, ch. 91-429.

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**486.015 Legislative intent.**—The sole legislative purpose in enacting this chapter is to ensure that every physical therapy practitioner practicing in this state meets minimum requirements for safe practice. It is the legislative intent that physical

therapy practitioners who fall below minimum competency or who otherwise present a danger to the public be prohibited from practicing in this state.

History.—ss. 1, 24, ch. 83-86; ss. 2, 17, 18, ch. 86-31; s. 4, ch. 91-429.





Florida Statutes Pertaining to Special Programs  
Chapter 743  
Disability of Nonage Minors Removed

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**743.047 Removal of disabilities of minors; executing agreements for motor vehicle insurance.**—For the purpose of ensuring that a child in foster care will be able to secure motor vehicle insurance, the disability of nonage of minors shall be removed provided that the child has reached 16 years of age, has been adjudicated dependent, is residing in an out-of-home placement as defined in s. 39.01, and has completed a driver education program. Upon issuance of an order by a court of competent jurisdiction, such child is authorized to make and execute all documents, contracts, or agreements necessary for obtaining motor vehicle insurance as if the child is otherwise competent to

make and execute contracts. Execution of any such contract or agreement for motor vehicle insurance has the same effect as if it were the act of a person who is not a minor. A child seeking to enter into such contract or agreement or execute other necessary instrument incidental to obtaining motor vehicle insurance must present an order from a court of competent jurisdiction removing the disabilities of nonage of the minor pursuant to this section.

History.—s. 3, ch. 2014-166.

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**743.067 Unaccompanied youths.**—An unaccompanied youth, as defined in 42 U.S.C. s. 11434a, who is also a certified homeless youth, as defined in s. 382.002, and who is 16 years of age or older may petition the circuit court to have the disabilities of nonage removed under s. 743.015. The youth shall qualify as a person not required to prepay costs

and fees as provided in s. 57.081. The court shall advance the cause on the calendar.

History.—s. 4, ch. 2012-186.



Florida Statutes Pertaining to Special Programs  
Chapter 775  
Definitions; General Penalties; Registration of Criminals

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**775.0862 Sexual offenses against students by authority figures; reclassification.—**

(1) As used in this section, the term:

(a) “Authority figure” means a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

(b) “School” has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, the Florida Virtual School established under s. 1002.37, and a K-8 Virtual School established under s. 1002.415. The term does not include facilities dedicated exclusively to the education of adults.

(c) “Student” means a person younger than 18 years of age who is enrolled at a school.

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(a)1.a., unless

the offense is a violation of s. 794.011(4)(g) or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(c) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

History.—s. 2, ch. 2014-202.



# Florida Statutes Pertaining to Special Programs

## Chapter 984

### Children and Families in Need of Services

**984.071 Information packet.**—The Department of Juvenile Justice, in collaboration with the Department of Children and Families and the Department of Education, shall develop and publish an information packet that explains the current process under this chapter for obtaining assistance for a child in need of services or a family in need of services and the community services and resources available to parents of troubled or runaway children. In preparing the information packet, the Department of Juvenile Justice shall work with school district superintendents, juvenile court judges, county sheriffs, and other local law enforcement officials in order to ensure that the information packet lists services and resources that

are currently available within the county in which the packet is distributed. Each information packet shall be annually updated and shall be available for distribution by January 1, 1998. The school district shall distribute this information packet to parents of truant children and to other parents upon request or as deemed appropriate by the school district. In addition, the Department of Juvenile Justice shall distribute the information packet to state and local law enforcement agencies. Any law enforcement officer who has contact with the parent of a child who is locked out of the home or who runs away from home shall make the information available to the parent.

History.—s. 17, ch. 97-281; s. 67, ch. 98-280; s. 334, ch. 2014-19.

**984.12 Case staffing; services and treatment to a family in need of services.**—

(1) The appropriate representative of the department shall request a meeting of the family and child with a case staffing committee to review the case of any family or child who the department determines is in need of services or treatment if:

(a) The family or child is not in agreement with the services or treatment offered;

(b) The family or child will not participate in the services or treatment selected; or

(c) The representative of the department needs assistance in developing an appropriate plan for services. The time and place selected for the meeting shall be convenient for the child and family.

(2) The composition of the case staffing committee shall be based on the needs of the family and child. It shall include a representative from the child's school district and a representative of the Department of Juvenile Justice, and may include a supervisor of the department's contracted provider; a representative from the area of health, mental health, substance abuse, social, or educational services; a representative of the state attorney; the alternative sanctions coordinator; and any person recommended by the child, family, or department.

(3) The case staffing committee shall reach a timely decision to provide the child or family with needed services and treatment through the development of a plan for services.

(4) The plan for services shall contain the following:

(a) Statement of the problems.

(b) Needs of the child.

(c) Needs of the parents, guardian, or legal

custodian.

(d) Measurable objectives that address the identified problems and needs.

(e) Services and treatment to be provided, to include:

1. Type of services or treatment.

2. Frequency of services or treatment.

3. Location.

4. Accountable service providers or staff.

(f) Timeframes for achieving objectives.

(5) Upon receipt of the plan, the child and family shall acknowledge their position by accepting or rejecting the services and provisions in writing. If the plan is accepted, it shall be implemented as soon as is practicable.

(6) A case manager shall be designated by the case staffing committee to be responsible for implementing the plan. The case manager shall periodically review the progress towards achieving the objectives of the plan in order to:

(a) Advise the case staffing committee of the need to make adjustments to the plan; or

(b) Terminate the case as indicated by successful or substantial achievement of the objectives of the plan.

(7) The parent, guardian, or legal custodian may convene a meeting of the case staffing committee, and any other member of the committee may convene a meeting if the member finds that doing so is in the best interest of the family or child. A case staffing committee meeting requested by a parent, guardian, or legal custodian must be convened within 7 days, excluding weekends and legal holidays, after the date the department's representative receives the request in writing.

(8) Within 7 days after meeting, the case



staffing committee shall provide the parent, guardian, or legal custodian with a written report that details the reasons for the committee's decision to recommend, or decline to recommend, that the department file a petition alleging that

the child is a child in need of services.

History.—s. 8, ch. 87-133; s. 9, ch. 91-45; s. 19, ch. 95-267; s. 9, ch. 95-280; s. 4, ch. 96-369; s. 24, ch. 96-398; s. 98, ch. 97-238; s. 7, ch. 97-281.

Note.—Former s. 39.426.

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**984.151 Truancy petition; prosecution; disposition.—**

(1) If the school determines that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period pursuant to s. 1003.26(1)(b), or has had more than 15 unexcused absences in a 90-calendar-day period, the superintendent of schools or his or her designee may file a truancy petition.

(2) The petition shall be filed in the circuit in which the student is enrolled in school.

(3) Original jurisdiction to hear a truancy petition shall be in the circuit court; however, the circuit court may use a general or special master pursuant to Supreme Court rules. Upon the filing of the petition, the clerk shall issue a summons to the parent, guardian, or legal custodian of the student, directing that person and the student to appear for a hearing at a time and place specified.

(4) The petition must contain the following: the name, age, and address of the student; the name and address of the student's parent or guardian; the school where the student is enrolled; the efforts the school has made to get the student to attend school; the number of out-of-school contacts between the school system and student's parent or guardian; and the number of days and dates of days the student has missed school. The petition shall be sworn to by the superintendent or his or her designee.

(5) Once the petition is filed, the court shall hear the petition within 30 days.

(6) The student and the student's parent or

guardian shall attend the hearing.

(7) If the court determines that the student did miss any of the alleged days, the court shall order the student to attend school and the parent to ensure that the student attends school, and may order any of the following: the student to participate in alternative sanctions to include mandatory attendance at alternative classes to be followed by mandatory community services hours for a period up to 6 months; the student and the student's parent or guardian to participate in homemaker or parent aide services; the student or the student's parent or guardian to participate in intensive crisis counseling; the student or the student's parent or guardian to participate in community mental health services if available and applicable; the student and the student's parent or guardian to participate in service provided by voluntary or community agencies as available; and the student or the student's parent or guardian to participate in vocational, job training, or employment services.

(8) If the student does not successfully complete the sanctions ordered in subsection (7), the case shall be referred to the case staffing committee under s. 984.12 with a recommendation to file a child-in-need-of-services petition under s. 984.15.

(9) The parent, guardian, or legal custodian and the student shall participate, as required by court order, in any sanctions or services required by the court under this section, and the court shall enforce such participation through its contempt power.

History.—s. 75, ch. 99-398; s. 24, ch. 2000-235; s. 1048, ch. 2002-387; s. 7, ch. 2014-39.

# Florida Statutes Pertaining to Special Programs

## Chapter 985

### Juvenile Justice; Interstate Compact on Juveniles

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985.622 Multiagency plan for career and professional education (CAPE).—

(1) The Department of Juvenile Justice and the Department of Education shall, in consultation with the statewide Workforce Development Youth Council, school districts, providers, and others, jointly develop a multiagency plan for career and professional education (CAPE) that establishes the curriculum, goals, and outcome measures for CAPE programs in juvenile justice education programs. The plan must be reviewed annually, revised as appropriate, and include:

(a) Provisions for maximizing appropriate state and federal funding sources, including funds under the Workforce Investment Act and the Perkins Act.

(b) Provisions for eliminating barriers to increasing occupation-specific job training and high school equivalency examination preparation opportunities.

(c) The responsibilities of both departments and all other appropriate entities.

(d) A detailed implementation schedule.

(2) The plan must define CAPE programming that is appropriate based upon:

(a) The age and assessed educational abilities and goals of the student to be served; and

(b) The typical length of stay and custody characteristics at the juvenile justice education program to which each student is assigned.

(3) The plan must include a definition of CAPE programming that includes the following classifications of juvenile justice education programs that will offer CAPE programming by one of the following types:

(a) Type 1.—Programs that teach personal accountability skills and behaviors that are appropriate for students in all age groups and ability levels and that lead to work habits that help maintain employment and living standards.

(b) Type 2.—Programs that include Type 1 program content and an orientation to the broad scope of career choices, based upon personal abilities, aptitudes, and interests. Exploring and gaining knowledge of occupation options and the level of effort required to achieve them are essential prerequisites to skill training.

(c) Type 3.—Programs that include Type 1 program content and the competencies or the prereq-

uisites needed for entry into a specific occupation.

(4) The plan must also address strategies to facilitate involvement of business and industry in the design, delivery, and evaluation of CAPE programming in juvenile justice education programs, including apprenticeship and work experience programs, mentoring and job shadowing, and other strategies that lead to postrelease employment. Incentives for business involvement, such as tax breaks, bonding, and liability limits should be investigated, implemented where appropriate, or recommended to the Legislature for consideration.

(5) The plan must also evaluate the effect of students' mobility between juvenile justice education programs and school districts on the students' educational outcomes and whether the continuity of the students' education can be better addressed through virtual education.

(6) The Department of Juvenile Justice and the Department of Education shall each align its respective agency policies, practices, technical manuals, contracts, quality-assurance standards, performance-based-budgeting measures, and outcome measures with the plan in juvenile justice education programs by July 31, 2015. Each agency shall provide a report on the implementation of this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives by August 31, 2015.

(7) All provider contracts executed by the Department of Juvenile Justice or the school districts after January 1, 2015, must be aligned with the plan.

(8) The planning and execution of quality assurance reviews conducted by the Department of Education or the Department of Juvenile Justice after August 1, 2015, must be aligned with the plan.

(9) Outcome measures reported by the Department of Juvenile Justice and the Department of Education for students released on or after January 1, 2016, should include outcome measures that conform to the plan.

History.—s. 5, ch. 2000-137; s. 31, ch. 2001-125; s. 123, ch. 2002-1; s. 81, ch. 2006-120; s. 172, ch. 2010-102; s. 29, ch. 2014-184.  
Note.—Former s. 985.3155.



## **Section B:**

# **Florida State Board of Education Rules Pertaining to Exceptional Student Education**





# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-1

### Finance and Administration

#### **6A-1.014 Expenditure of Funds in Programs and Schools Where Generated.**

Compliance with the expenditure requirements as set forth in Section 237.34(3), Florida Statutes, shall be measured by the criteria set forth in subsections (1), (2) and (3) of this rule.

(1) Revenue generated by membership represents the product of the following six (6) factors and any adjustments by the Department for program ceilings or prior year adjustments:

- (a) The number of full-time equivalent students for each program funding category,
- (b) The cost factor for each program funding category,
- (c) The base student allocation,
- (d) The district cost differential,
- (e) Other components as funded by the annual appropriations item for the Florida Education Finance Program (FEFP), and
- (f) The proration factor, if it is necessary to prorate program earnings to available revenue.

(2) Eligible expenditures as used herein include all school level direct and indirect expenditures of the general fund exclusive of expenditures for recreational and enrichment programs, community services not funded under the FEFP, land, land improvement, buildings, and remodeling. Eligible expenditures are also to include expenditures for food services in the special revenue funds. Eligible expenditures for food services shall be limited by the amount of state and local tax support for food services.

(3) The identification of cost is based on the dimensions of fund, function, object, and facility. School level costs are distinguished from district level costs as follows:

- (a) School level cost.
  1. Salaries and fringe benefits of teachers,
  2. Salaries and fringe benefits of other instructional personnel,
  3. Salaries and fringe benefits of substitutes,
  4. Salaries and fringe benefits of principals and other administrative personnel,
  5. Salaries and fringe benefits of pupil personnel staff working with pupils,
  6. Salaries and fringe benefits of other support staff in the school,
  7. School staff travel,
  8. Supplies and materials used in the school center,
  9. Maintenance for the school,
  10. Utilities for the school,
  11. Equipment, audio-visual materials and library books for the school,
  12. Library and audio-visual materials processing and film rentals,
  13. Educational television for instructional purposes,
  14. Staff training for school level instructional and

non-instructional personnel,

15. Data processing for student oriented applications,
16. Curriculum coordinators assigned to the school,
17. School building related insurance,
18. Printing of instructional and other school use materials,
19. Warehousing and distribution of materials used at the school,
20. Transportation costs other than district level administration of the activity,
21. Food service costs other than district level administration of the activity,
22. All other costs of a school level nature.
- (b) District level costs.
  1. Board expense,
  2. Salaries and fringe benefits of superintendent and staff,
  3. Salaries and fringe benefits of other district staff including subject matter and grade level coordinators, consultants, or supervisors, as well as the district level supervisors or directors of transportation, food service, maintenance and operations,
  4. Salaries and fringe benefits of other district support personnel,
  5. Travel of district level personnel,
  6. Supplies and materials used in district offices,
  7. Bonds and general liability insurance,
  8. Maintenance for district offices,
  9. Utilities for district office,
  10. Equipment for district level services,
  11. All other costs of a district level nature.

Specific Authority 229.053(1), 237.34(1) FS. Law Implemented 237.34 FS. History - New 7-20-74, Amended 9-5-74, Repromulgated 12-5-74, Amended 4-14-76, 7-12-77, Formerly 6A-1.14, Amended 6-10-87.

#### **6A-1.0141 Categorical Program Funds.**

Categorical program funds, identified in Section 236.081, Florida Statutes, or any other earmarked funds allocated to a school district shall be expended only in the program for which funds are provided. Any such funds, except those categorical program funds provided through contract or grant for a specific period of time, not expended by a school district as of the close of a fiscal year shall be carried forward into the following fiscal year for the same categorical purpose.

Specific Authority 229.053 FS. Law Implemented 236.081, 237.01 FS. History - New 10-31-74, Repromulgated 12-5-74, Amended 4-8-75, Formerly 6A-1.141.

#### **6A-1.0451 Florida Education Finance Program Student Membership Surveys.**

- (1) The Commissioner shall prescribe the methods for completing and reporting full-time equivalent (FTE)

student membership surveys and transported student membership surveys in each school district for the Florida Education Finance Program in the publication titled "FTE General Instructions, 2013-14," (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03905>) which is hereby incorporated by reference in this rule. The instructions may be obtained from the Bureau of School Business Services, Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(2) The Commissioner shall have the authority to establish for any school district or school an alternate date for a full-time equivalent membership survey or transported student membership survey within nine (9) weeks of the regular statewide survey if evidence is submitted by the school district that indicates an abnormal fluctuation in student membership has occurred at the time of the statewide survey. The alternate date shall be established by the Commissioner prior to conducting the survey. In determining what constitutes an abnormal fluctuation, the Commissioner shall examine the historical trends in student membership and limit consideration to changes in which there is a variation in excess of twenty-five (25) percent in any school, or five (5) percent in the district between the membership count at the time of the statewide membership count and the alternate membership count due to factors such as major student boycotts; civil disturbances; in-migration or out-migration in agricultural, industrial, and federal installations or contractors; or providential causes beyond the control of the district school board.

(3) The Commissioner may approve an alternative to the instructions in paragraphs (b), (c), and (d) of subsection (1) of Rule 6A-1.0451, F.A.C., for a given district based on an emergency, a pilot study, or increased effectiveness and efficiency in data collection or reporting.

(4) During the year, at least four (4) full-time equivalent student membership surveys shall be conducted under the administrative direction of and on a schedule provided by the Commissioner. The second period and the third period full-time equivalent student membership survey for students in a program scheduled for one hundred eighty (180) school days, or the hourly equivalent as provided in Rule 6A-1.045111, F.A.C., shall each be equal to ninety, one hundred eightieths (90/180) of the school year, or the hourly equivalent. Students in a program scheduled for less than one hundred eighty (180) school days, or the hourly equivalent as provided in Rule 6A-1.045111, F.A.C., in any full-time equivalent student membership survey shall be a fraction of a full-time equivalent member as provided in Section 1011.61(1), F.S. The four (4) survey periods, insofar as practicable, shall be scheduled to take the extended school year, staggered school year, and other variations of or from the regular one hundred eighty (180) day school year into consideration. School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey except that the Florida Virtual School, established in Section

1002.37, F.S., may amend a common student identifier until the Survey Period 2 amendment deadline; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments that are submitted too late to be reviewed and included in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments.

(5) For purposes of transportation, students with disabilities under Section 1011.68(5), F.S., shall be those students with disabilities for whom school bus transportation is impractical or unavailable for reasons related to the student's individual needs and circumstances. Such needs and circumstances shall be documented on the student's individual educational plan.

(6) For students in all special programs, a student's full-time equivalent membership shall be reported in the respective special program cost factor prescribed in Section 1011.62(1)(c), F.S., when the student is eligible and is attending a class, course, or program that has met all of the criteria for the special program cost factor. In addition, when reporting program membership, each student shall be reported in the same special program category as reported in the full-time equivalent membership survey.

(7) ESE 135, Department of Juvenile Justice FTE School Funding Certification is hereby incorporated by reference and made a part of this rule. This form may be obtained from the Bureau of School Business Services, Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Rulemaking Authority 1001.02(1), (2)(n), 1011.60(1), 1011.62(1) FS. Law Implemented 1011.62(1), 1011.68 FS. History-New 4-19-74, Amended 10-31-74, Repromulgated 12-5-74, Amended 6-1-75, 1-29-76, 4-12-78, 8-2-79, 2-4-81, 7-28-81, 4-27-82, 7-13-83, 7-10-85, Formerly 6A-1.451, Amended 3-12-86, 9-30-87, 10-31-88, 12-5-90, 10-26-94, 12-15-98, 3-24-08, 5-3-10, 4-22-14.

#### **6A-1.04513 Maintaining Auditable FTE Records.**

Each school district shall maintain documentation adequate to support the full-time equivalent student membership of the district. Such documentation shall include, but is not limited to, all student membership survey forms, all student attendance records, and all student schedule records. These records shall be maintained in auditable condition, shall be made available to the Department of Education for auditing, and shall be kept for a period of three (3) years or until the completion of audit by the Department, whichever period is longer.

Specific Authority 1001.02(1), 1010.305 FS. Law Implemented 1010.305 FS. History-New 7-2-79, Formerly 6A-1.4513.

#### **6A-1.0452 Distribution of Florida Education Finance Program Funds.**

(1) The entitlement of current operations and transportation funds shall be distributed in amounts as nearly equal as practicable based upon distribution schedules developed by the Department. The Department may adjust the distribution of funds to the entitlement each district may reasonably expect to receive during the fiscal year.

(2) Each district shall be provided with its estimated Florida Education Finance Program prior to July 1 of each year. The estimated program shall be based on full-time equivalent student membership data, together with appropriate estimates and other relevant data affecting a district's entitlement.

(3) The results of the first, second and third period full-time equivalent student membership surveys shall be added to the estimated fourth period full-time equivalent student membership. A final estimate of each district's Florida Education Finance Program for current operations and transportation shall be made by April of each year and shall be used to make adjustments to the amount of funds distributed to the district for the remainder of the fiscal year.

(4) The fourth period full-time equivalent student membership survey shall be made prior to June 30, and used to adjust the fourth period estimate utilized in Subsection (3) above. As a result of this survey, any difference in the amount of a district's entitlement and the actual funds distributed shall be adjusted in the succeeding year.

Specific Authority 229.053(1) FS. Law Implemented 236.081 FS. History - New 2-18-74, Revised 6-17-74, 10-31-74, Repromulgated 12-5-74, Formerly 6A-1.452, Amended 8-30-88.

#### **6A-1.0453 Educational Program Audits.**

(1) The Commissioner may utilize staff of the Department to conduct audits of district compliance with statute and rules as requested by the Legislature or State Board of Education.

(2) The Auditor General is responsible for:

(a) Periodically examining and evaluating programs, records and procedures in each district which requests funding under the Florida Education Finance Program.

(b) Notifying the auditee of an upcoming audit and conducting an entrance briefing to explain the purpose, scope and schedule of the audit.

(c) Scheduling an exit briefing with the auditee at the completion of the examination to discuss the findings.

(d) Submitting to the auditee a list of findings which may be included in the audit report. The auditee shall submit to the Auditor General, within thirty (30) days after the receipt of the list of findings, his or her written statement of explanation or rebuttal concerning all the findings, including corrective action to be taken to preclude a recurrence of all findings.

(e) Preparing a written report incorporating the response of the auditee. The audit report shall be transmitted to the Commissioner with copies to the Deputy Commissioner for Finance and Operations and the Chancellor

for K-12 Public Schools. The audit report shall specifically identify instances of:

1. Errors in the reported full-time equivalent membership by program category; and

2. Improper classification or placement of individual students assigned to educational alternative or exceptional student programs.

(3) Upon receipt of an official audit report, the Deputy Commissioner for Finance and Operations shall compute the amount of adjustment to the district's allocation of state funds necessary to compensate for the errors or deficiencies noted in subsection (2). In those instances where a student has been improperly classified or placed in an exceptional student program, and in those instances where a special program fails to meet the prescribed criteria, the adjustment shall be computed on the basis of the basic program cost factor for which each student qualifies. Except for adjustments made during the fiscal year in which the discrepancies occurred adjustments shall be limited to fund allocations and no changes shall be made in full-time equivalent membership data.

(4) The Deputy Commissioner for Finance and Operations, within forty-five (45) days of receipt of an official audit report and completion of any computation of adjustments required therein, shall provide an official notice to the district school board which shall include:

(a) A detailed analysis of the audit findings and the computation of all adjustments proposed to correct discrepancies;

(b) A statement citing the specific law or rule upon which the finding of each discrepancy is based, and the authority under which the adjustment is to be made; and

(c) An opportunity for the district to request a hearing, within sixty (60) days from date of the official notice, and prior to final action being taken. The district request for a hearing shall include the specific issues and schools.

(5) In the event a district notifies the Department of its desire for a hearing on the proposed adjustment, the Department shall respond within thirty (30) days, and then the Commissioner shall schedule an informal conference between all parties in an effort to explain and resolve any disputed findings and to arrive at an agreement between the Department and the district. The conference hearing shall be held within twelve (12) months of initial request. If, however, the parties are unable to hold an informal conference or to arrive at a satisfactory agreement within twelve (12) months of the initial request and the school district wishes to proceed with a formal hearing, the Commissioner shall request the Division of Administrative Hearings of the Department of Administration to assign a hearing officer, and the Department shall proceed with the hearing in the manner prescribed by Section 120.57, F.S.

(6) Following completion of the hearing, the recommended order of the hearing examiner shall be transmitted to the State Board. The State Board shall, following examination of the recommended order, adopt a final agency order as prescribed by Section 120.57, F.S.

(7) Upon receipt of the final agency order, the Deputy Commissioner for Finance and Operations shall com-

pute the required adjustment, if any, to the district's allocation of state funds, make the adjustment in the aforementioned funds, and notify the district of the final action.

Specific Authority 1001.02(1) FS. Law Implemented 11.45, 1001.03(8), 1001.11(6), 1008.32, 1010.305 FS. History-New 2-25-76, Amended 10-30-78, 12-7-82, 6-28-83, 11-27-85, Formerly 6A-1.453, Amended 10-31-88, 3-15-90, 1-7-97, 7-5-01, 9-22-08.

#### **6A-1.0502 Noncertificated Instructional Personnel.**

In each school district there are persons who possess expert skill in or knowledge of a particular subject or talent but do not hold a Florida teaching certificate. These persons constitute an invaluable community resource for the education of the pupils in that district. Each school board or charter school governing board shall adopt such policies as are necessary to ensure that the principals and teachers of that district may utilize in an appropriate instructional capacity the services of such expert persons in the community. Such persons may serve as a nonpaid volunteer or as a paid member of the instructional staff to render instructional service in the individual's field of speciality but shall not be required to hold a Florida teaching certificate. The school board or charter school governing board policies for noncertificated instructional personnel shall include, but are not limited to, the following:

(1) Health and age. Health and age requirements shall be the same as those required for certificated instructional personnel.

(2) Employment procedures. Employment procedures shall be the same as those followed for certificated instructional personnel, except that noncertificated instructional personnel shall not be entitled to a contract as prescribed by Rule 6A-1.064(1), FAC.

(3) Personnel records. The personnel records of the district or charter school shall contain information considered necessary by the school board or charter school governing board to establish the speciality of the individual, and a statement of the instructional duties assigned to and performed by such person.

(4) Salary. The official salary schedule for instructional personnel shall include a salary schedule for full-time and part-time employed noncertificated instructional personnel.

(5) Assignment, suspension and dismissal. Procedures for the assignment, suspension, and dismissal of noncertificated instructional personnel shall be adopted and provided in writing to each such employee at the time of employment.

(6) Assessment of performance. Procedures for assessing the performance of duties and responsibilities by all noncertificated instructional personnel shall ensure that each such person adequately performs the duties assigned.

(7) Pupil welfare. Procedures for assuring that each noncertificated instructional person who at any time is expected to assume responsibility for the health, safety, and welfare of pupils possesses, in advance of assuming the responsibility, a clear understanding of state rules and district or charter school rules and policies relevant to instructional responsibilities. When assigned duties require knowledge of rules or policies of a special nature, the

policies shall specify that the person occupying a specifically named position is responsible to ascertain that the person possesses, in advance of assuming the duties, the necessary knowledge to perform such duties in a proper and reasonable manner.

(8) Instructional practices and policies. Procedures for assuring that each noncertificated instructional person who at any time is expected to assume responsibility for promoting pupil learning possesses, in advance of assuming this responsibility, a clear understanding of all state instructional practices and policies and district or charter school instructional practices and policies relevant to instructional responsibilities.

(9) In lieu of the requirements herein, the school board or charter school governing board may adopt special policies for those part-time personnel who are employed to teach no more than one hundred sixty (160) clock hours during a fiscal year.

(10) Notwithstanding the provisions of Rule 6A-1.0502(1) through (9), FAC., the school board or charter school governing board may employ noncertificated persons licensed by the State of Florida as occupational therapists or as physical therapists to render services to students in those areas covered by such license. The procedures for employment shall be the same as provided by law for certificated instructional personnel, and each person so employed shall be entitled to a written contract in the form prescribed pursuant to Rule 6A-1.064, FAC. Provided, however, that a noncertificated person employed to render services as an occupational therapist or as a physical therapist may not be assigned duties of an instructional nature that are not covered within the scope of the person's license as defined by law.

(11) Notwithstanding the provisions of Rule 6A-1.0502(1) through (9), FAC., the school board or charter school governing board may employ persons certified as audiologists or speech pathologists under Chapter 468, Part I, Florida Statutes, to render services to students in those areas covered by such certificate of registration. The procedures for employment shall be the same as provided by law for certificated instructional personnel, and each person so employed shall be entitled to a written contract in the form prescribed pursuant to Rule 6A-1.064, FAC. Provided, however, that a noncertificated person employed to render services as an audiologist or speech pathologist may not be assigned duties of an instructional nature that are not covered within the scope of the person's certificate of registration as defined by law.

(12) A noncertificated person employed pursuant to this section shall be accorded the same protection of the laws as that accorded the certificated teacher.

Specific Authority 1002.33(12), 1012.32, 1012.55(1) FS. Law Implemented 1002.33, 1012.32, 1012.55, FS. History - New 7-20-73, Amended 4-19-74, Repromulgated 12-5-74, Amended 6-9-81, 8-16-82, Formerly 6A-1.502, Amended 5-30-94, 5-25-04

#### **6A-1.0503 Definition of Qualified Instructional Personnel.**

A qualified instructional person is defined as an instructional staff member who meets one (1) of the fol-



lowing conditions:

(1) Holds a valid Florida educator's certificate with the appropriate coverage as provided for in the Course Code Directory as adopted by reference in Rule 6A-1.09441, FAC., or

(2) Is a selected noncertificated person employed under the provisions of Rule 6A-1.0502, FAC., or

(3) Holds a valid Florida educator's certificate with coverage other than that deemed appropriate by subsection (1) and has documented a highly qualified designation pursuant to 20 U.S.C. S. 7801(23), by a High, Objective, Uniform State Standard of Evaluation (HOUSSE) plan for the academic course assigned, or

(4) Holds a valid Florida educator's certificate with coverage other than that deemed appropriate by subsection (1) and does not meet the requirements of subsection (3) and has been approved by the school board or charter school governing board to teach out-of-field after determination that a teacher with appropriate certification coverage is not available. All evidence of such qualifications and approval must be reflected in the individual's official personnel record; provided, however, that such approval may be granted by the school board or charter school governing board only under one (1) of the following conditions:

(a) The individual is in the first year of employment in the out-of-field assignment and has not been granted, during any preceding year in the district or charter school, approval by either the school board or the charter school governing board to be employed out-of-field in an area for which specific certification is otherwise required, or

(b) The individual has earned the following college credit or inservice training in an approved district add-on program or district approved subject content professional development program:

1. Out-of-field assignment other than ESOL (English to Speakers of Other Languages). A teacher out of field in a subject other than ESOL shall complete at least six (6) semester hours of college credit or the equivalent inservice toward the appropriate certification required in subsection (1) within one (1) calendar year from date of initial appointment to the out-of-field assignment and each calendar year thereafter until all requirements are completed for the appropriate subject certification;

2. Out-of-field assignment in only ESOL. A teacher out of field in only ESOL shall complete at least three (3) semester hours of college credit or the equivalent inservice toward the ESOL requirements within the first two (2) calendar years from date of initial assignment to a class with limited English proficient (LEP) students and three (3) semester hours or the equivalent inservice during each calendar year thereafter until all requirements for certification in ESOL are completed; or

3. Out-of-field assignment in ESOL and another subject. A teacher out of field in ESOL and another subject shall complete at least six (6) semester hours of college credit or the equivalent inservice toward the appropriate certification required by subsection (1) within one (1) calendar year from date of initial appointment to the

out-of-field assignment and each calendar year thereafter until all requirements are completed for the appropriate subject certification. The training shall be completed in the following manner: During the first two years, at least three (3) of the required twelve (12) semester hours or the equivalent inservice shall be completed in ESOL strategies. Beginning with the third year and each year thereafter, at least three (3) semester hours or the equivalent inservice shall be completed in ESOL strategies and at least three (3) semester hours in the other out-of-field subject requirements. When either all ESOL or all other out-of-field subject requirements are completed, a teacher shall comply with the schedule specified in subparagraph (4)(b)1. or 2. of this rule as appropriate until all requirements are completed for both ESOL and the other out-of-field subject.

4. Waivers of college credit or inservice training in an approved district add-on or subject content professional development program may be obtained by one of the following provisions:

a. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1., 2., or 3. of this rule, an individual shall provide a doctor's statement certifying to medical inability to earn such credit during the prescribed time;

b. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1. of this rule, the district superintendent or charter school chief administrator shall provide a statement certifying to extenuating circumstances beyond the control of the teacher to earn such credit during the prescribed time; or

c. In lieu of college credit or the equivalent inservice specified in subparagraph (4)(b)1. or the criteria in paragraph (4)(a) of this rule, the Commissioner of Education may grant to the district, individual school sites, or a charter school a waiver of the requirements for a period of one (1) year on a one-time basis. The district superintendent or charter school chief administrator shall, pursuant to school board or charter school governing board approval for such waiver, show extenuating circumstances that create a hardship for the district or teachers in meeting the specified requirements, or

(5) Is a nondegreed teacher of vocational education employed under the provisions of Section 1012.39, Florida Statutes. The requirements in Section 1012.39(1)(c)2.a. and b., Florida Statutes, must be satisfied prior to initial appointment to the position.

Specific Authority 1002.33(12), 1012.32, 1012.55(1), 1012.56(6) FS. Law Implemented 1002.33, 1012.05, 1012.32, 1012.39, 1012.55, 1012.56 FS. History - New 4-19-74, Repromulgated 12-5-74, Amended 9-8-76, Formerly 6A-1.503, Amended 10-30-90, 10-3-91, 2-18-93, 5-25-04, 3-1-05.

#### **6A-1.09401 Student Performance Standards.**

(1) Student Performance Standards in Florida are defined as the Next Generation Sunshine State Standards and establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire. The Next Generation Sunshine State Standards



are rigorous and reflect the knowledge and skills students need for success in college and careers. The standards and benchmarks describe what students should know and be able to do at grade level progression for kindergarten to grade 8 and in grade bands for grade levels 9-12. The access points contained in the Next Generation Sunshine State Standards provide access to the general education curriculum for students with significant cognitive disabilities. These standards, benchmarks, and access points are contained in the following publications which are hereby incorporated by reference and made a part of this rule.

(a) Next Generation Sunshine State Standards (Florida Standards) - English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects, 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03703>),

(b) Next Generation Sunshine State Standards (Florida Standards) - Mathematics 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03098>),

(c) Next Generation Sunshine State Standards - Science, 2008,

(d) Next Generation Sunshine State Standards - Social Studies, Revised June 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04239>),

(e) Next Generation Sunshine State Standards - World Languages, 2011,

(f) Next Generation State Standards - The Arts, 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03100>),

(g) Next Generation Sunshine State Standards - Health, Education, 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03101>),

(h) Next Generation Sunshine State Standards - Physical Education, 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03102>),

(i) Next Generation Sunshine State Standards - Gifted Education, 2014, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03103>),

(j) Next Generation Sunshine State Standards - Special Skills, 2014, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03104>),

(k) English Language Development/Proficiency Standards for English Language Learners, 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04240>),

(l) Access Points to Next Generation Sunshine State Standards (Florida Standards) - English Language Arts 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04241>), and

(m) Access Points to Next Generation Sunshine State Standards (Florida Standards) - Mathematics 2014 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-04242>). Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325 West Gaines St., Tallahassee, Florida 32399-0400.

(2) The Commissioner shall periodically review, accept public comment on and revise Florida standards. The process shall begin with convening an expert group to review the standards and make recommendations to the Commissioner for their review and revision. The Commissioner shall determine whether revisions are necessary based on the recommendations of the expert group, and

shall propose such revisions to the State Board of Education for adoption.

(3) Each district school board shall incorporate the Next Generation Sunshine State Standards as appropriate for subject areas contained herein into the district Student Progression Plan.

(4) The Next Generation Sunshine State Standards shall serve as the basis for statewide assessments.

Rulemaking Authority 1001.02, 1003.41(4) FS. Law Implemented 1001.03, 1003.41 FS. History-New 6-18-96, Amended 9-28-99, 3-1-07, 7-25-07, 11-25-07, 4-14-08, 9-22-08, 2-1-09, 1-6-10, 9-5-10, 2-8-11, 3-25-14, 7-22-14.

#### **6A-1.09412 Course Requirements - Grades K-12 Basic and Adult Secondary Programs.**

A course description directs district personnel by providing the essential content and course requirements for each course in grades K-12 contained in the "Course Code Directory and Instructional Personnel Assignments" adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publications "2013-2014 Florida Course Descriptions for Grades K-12/Adult, Basic Education," (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03095>) (<http://www.fldoe.org/articulation/ccd/1314.asp>) and 2014-2015 Florida Course Descriptions for Grades K-12/Adult, Basic Education" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03698>) (<http://www.fldoe.org/articulation/ccd/1415.asp>) which are hereby incorporated by reference and made a part of this rule. Copies of approved course descriptions may be obtained from Division of Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Rulemaking Authority 1001.02, 1001.03(1), 1011.62(1)(u) FS. Law Implemented 1001.03, 1011.62(1)(u) FS. History-New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-15-01, 12-17-02, 7-26-05, 11-21-05, 7-27-06, 1-18-07, 3-24-08, 10-21-09, 5-3-10, 7-27-11, 8-21-12, 3-25-14.

#### **6A-1.09414 Course Requirements - Grades PK-12 Exceptional Student Education.**

A course description directs district personnel by providing the essential content and course requirements for each course in grades PK-12 contained in the "Course Code Directory and Instructional Personnel Assignments" adopted in Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publication "2013-2014 Florida Course Descriptions for Grades PK-12, Exceptional Student Education" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03094>), (<http://www.fldoe.org/articulation/CCD/1314.asp>), which is hereby incorporated by reference and made a part of this rule. Copies of approved course descriptions may be obtained from Division of Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Rulemaking Authority 1001.02, 1001.03(1), 1011.62(1)(u) FS. Law Implemented 1003.03, 1011.62(1)(u) FS. History-New 7-9-86, Amended 12-28-86, 12-13-88, 12-11-89, 11-12-91, 6-6-93, 10-18-94, 9-28-99, 8-21-12, 3-25-14.

**6A-1.09422 Florida Comprehensive Assessment Test and End-of-Course Assessment Requirements.**

(1) The statewide program of educational assessment required by Section 1008.22, F.S., shall be developed under the direction and supervision of the Commissioner of Education and shall be:

(a) Kept secured at all times, in accordance with the provisions of Rule 6A-10.042, F.A.C.

(b) Provided to all school districts in the quantity needed for the students in the district.

(c) Administered in accordance with standard written instructions appropriate for the assessment. The written instructions shall be issued by the Commissioner in the form of test administration manuals and other written communications, as required, and provided to school districts in sufficient time prior to each assessment.

(d) Revised and updated as needed.

(e) Developed in consultation with teachers and other appropriate professionals and approved by the Commissioner prior to being administered to students.

(f) Be derived from the student performance standards adopted in Rule 6A-1.09401, F.A.C.

(2) The assessment program shall include the Florida Comprehensive Assessment Test® (FCAT), the Florida Comprehensive Assessment Test® (FCAT) 2.0, and the Florida End-of-Course (EOC) Assessments.

(a) Before the 2010-2011 school year, the FCAT shall consist of four (4) sections: one (1) measuring reading skills in grades three through ten; one (1) measuring mathematics skills in grades three through ten; one (1) measuring writing skills in grades four, eight and ten; and one (1) measuring science skills in grades five, eight, and eleven. Beginning with the 2010-2011 school year, the FCAT shall consist of three (3) sections; one (1) measuring mathematics skills in grade ten; one (1) measuring writing skills in grades four, eight, and ten; and one (1) measuring science skills in grades five, eight, and eleven. Beginning with the 2011-2012 school year, the FCAT shall consist of one (1) section measuring writing skills in grades four, eight, and ten. The FCAT Retake in reading shall continue to be administered through the 2011-2012 school year, and the FCAT Retake in mathematics shall continue to be administered through 2012-2013 school year.

(b) Beginning with the 2010-2011 school year, the FCAT 2.0 shall consist of two (2) sections: one (1) measuring reading skills in grades three through ten, and one (1) measuring mathematics skills in grades three through eight. Beginning with the 2011-2012 school year, the FCAT 2.0 shall consist of three (3) sections: one (1) measuring reading skills in grades three through ten, one (1) measuring mathematics skills in grades three through eight, and one (1) measuring science skills in grades five and eight.

(c) The Florida EOC Assessments shall consist of assessments measuring the skills specified in five (5) courses: Algebra 1, Biology 1, Geometry, United States History, and Civics.

(3) The statewide assessment program shall be administered as follows:

(a) Before the 2010-2011 school year, all eligible students in grades three through ten shall take the FCAT

Reading and Mathematics. Beginning with the 2010-2011 school year, all eligible students in grades three through ten shall take the FCAT 2.0 Reading, and all eligible students in grades three through eight shall take the FCAT 2.0 Mathematics. All eligible students in grades four, eight, and ten shall take the FCAT Writing. Eligible students are those who are not exempted from the assessment pursuant to Section 1008.212, F.S., and Rule 6A-6.0909, F.A.C.

(b) Before the 2011-2012 school year, all eligible students in grades five, eight, and eleven shall take the FCAT Science. Beginning with the 2011-2012 school year, all eligible students in grades five and eight shall take the FCAT 2.0 Science. Eligible students are those who are not exempted from the assessment pursuant to Section 1008.212, F.S.

(c) Beginning with the 2010-2011 school year, all students enrolled in a high school Algebra 1 or equivalent course must take the Algebra 1 EOC Assessment.

(d) Beginning with the 2011-2012 school year, all students enrolled in a high school Geometry or equivalent course must take the Geometry EOC Assessment, and all students enrolled in a high school Biology 1 or equivalent course must take the Biology 1 EOC Assessment.

(e) Beginning with the 2012-2013 school year, all students enrolled in a high school United States History or equivalent course must take the United States History EOC Assessment.

(f) Beginning with the 2013-2014 school year, all students enrolled in a middle school civics education course must take the Civics EOC Assessment.

(g) Provisions shall be made by school districts to administer the assessment to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions shall be issued in the form of test administration manuals and other written communications, as required, and provided to school districts in sufficient time prior to each assessment.

(h) Provisions shall be made by the Commissioner to permit the assessment to be administered to home school students and private school students pursuant to Sections 1002.39 and 1002.395, F.S., under conditions which preserve the security of the assessment and require the public school districts to be responsible for the test administration procedures.

(i) In accordance with the requirements of Sections 1008.22(3)(a) and (b), F.S., provisions shall be made by the Commissioner to retest students if they do not attain passing scores on the assessments required for graduation.

(j) The assessments shall be administered to students not less than one (1) time per year on a schedule approved by the Commissioner; however, for assessments required for graduation with a standard high school diploma, students must participate in each retake of the assessment until achieving a passing score on the required assessment or a concordant or comparative score on an alternative assessment.

(4) Examinee scores on the FCAT Reading and Mathematics shall be reported on a score scale from 100 to 500

defined by the baseline assessment administered during January and February 1998, and a developmental scale of approximately 0 to 3000 that defines performance across grades three through ten. Examinee scores on the FCAT Science shall be reported on a score scale from 100 to 500 defined by the baseline assessment administered during March 2003. Examinee scores on the FCAT Writing shall be reported on a score scale from 1 to 6 defined by the FCAT Writing holistic rubrics.

(5) The total scores on the FCAT Reading, Mathematics, and Science also are reported on an achievement-level scale. Achievement levels range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on the assessment. The total scores that correspond to each achievement level are shown in the following paragraphs.

(a) The achievement levels for the FCAT Reading and Mathematics shall be as shown in the following tables.

(b) The achievement levels for the FCAT Science shall be as shown in the following table.

FCAT Reading grade-level scale scores (100 to 500) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	100-258	259-283	284-331	332-393	394-500
4	100-274	275-298	299-338	339-385	386-500
5	100-255	256-285	286-330	331-383	384-500
6	100-264	265-295	296-338	339-386	387-500
7	100-266	267-299	300-343	344-388	389-500
8	100-270	271-309	310-349	350-393	394-500
9	100-284	285-321	322-353	354-381	382-500
10	100-286	287-326	327-354	355-371	372-500

FCAT Reading developmental scale scores (86 to 3008) for each achievement:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	86-1045	1046-1197	1198-1488	1489-1865	1866-2514
4	295-1314	1315-1455	1456-1689	1690-1964	1965-2638
5	474-1341	1342-1509	1510-1761	1762-2058	2059-2713
6	539-1449	1450-1621	1622-1859	1860-2125	2126-2758
7	671-1541	1542-1714	1715-1944	1945-2180	2181-2767
8	886-1695	1696-1881	1882-2072	2073-2281	2282-2790
9	772-1771	1772-1971	1972-2145	2146-2297	2298-2943
10	844-1851	1852-2067	2068-2218	2219-2310	2311-3008

FCAT Mathematics grade level scale scores (100 to 500) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	100-252	253-293	294-345	346-397	398-500
4	100-259	260-297	298-346	347-393	394-500
5	100-287	288-325	326-354	355-394	395-500
6	100-282	283-314	315-353	354-390	391-500
7	100-274	275-305	306-343	344-378	379-500
8	100-279	280-309	310-346	347-370	371-500
9	100-260	261-295	296-331	332-366	367-500
10	100-286	287-314	315-339	340-374	375-500

FCAT Mathematics developmental scale scores (375 to 2709) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	375-1078	1079-1268	1269-1508	1509-1749	1750-2225
4	581-1276	1277-1443	1444-1657	1658-1862	1863-2330
5	569-1451	1452-1631	1632-1768	1769-1956	1957-2456
6	770-1553	1554-1691	1692-1859	1860-2018	2019-2492
7	958-1660	1661-1785	1786-1938	1939-2079	2080-2572
8	1025-1732	1733-1850	1851-1997	1998-2091	2092-2605
9	1238-1781	1782-1900	1901-2022	2023-2141	2142-2596
10	1068-1831	1832-1946	1947-2049	2050-2192	2193-2709

(6) Examinee scores on the FCAT 2.0 Reading and Mathematics shall be reported by the use of scaled scores and

FCAT Science grade-level scale scores (100 to 500) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
5	100-272	273-322	323-376	377-416	417-500
8	100-269	270-324	325-386	387-431	432-500
11	100-278	279-323	324-379	380-424	425-500

achievement levels defined by the baseline assessment administered during the 2010-2011 school year. Examinee scores on the FCAT 2.0 Science shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered during the 2011-2012 school year. Examinee scores on EOC assessments shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered as follows: Algebra 1 EOC Assessment (2010-2011), Geometry EOC Assessment (2011-2012), Biology 1 EOC Assessment (2011-2012), United States History EOC Assessment (2012-2013), and Civics EOC Assessment (2013-2014). Achievement levels range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on the assessment. Scoring at or above achievement level 4 on a Florida EOC Assessment indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

(a) The achievement levels for the FCAT 2.0 Reading and Mathematics shall be as shown in the following tables.

(b) The achievement levels for the FCAT 2.0 Science shall be as shown in the following table.

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	140-181	182-197	198-209	210-226	227-260
4	154-191	192-207	208-220	221-237	238-269
5	161-199	200-215	216-229	230-245	246-277
6	167-206	207-221	222-236	237-251	252-283
7	171-212	213-227	228-242	243-257	258-289
8	175-217	218-234	235-248	249-263	264-296
9	178-221	222-239	240-252	253-267	268-302
10	188-227	228-244	245-255	256-270	271-302

FCAT 2.0 Mathematics developmental scale scores (140 to 298) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	140-182	183-197	198-213	214-228	229-260
4	155-196	197-209	210-223	224-239	240-271
5	163-204	205-219	220-233	234-246	247-279
6	170-212	213-226	227-239	240-252	253-284
7	179-219	220-233	234-247	248-260	261-292
8	187-228	229-240	241-255	256-267	268-298

FCAT 2.0 Science grade-level scale scores (140 to 260) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
5	140-184	185-199	200-214	215-224	225-260
8	140-184	185-202	203-214	215-224	225-260

(c) The achievement levels for the Algebra 1 EOC Assessment shall be as shown in the following table.

Algebra 1 EOC Assessment scale scores (325 to 475) for each achievement level:

Level 1	Level 2	Level 3	Level 4	Level 5
325-374	375-398	399-424	425-436	437-475

(d) The achievement levels for the Geometry EOC Assessment shall be as shown in the following table.

Geometry EOC Assessment scale scores (325 to 475) for each achievement level:

Level 1	Level 2	Level 3	Level 4	Level 5
325-369	370-395	396-417	418-433	434-475

(e) The achievement levels for the Biology 1 EOC Assessment shall be as shown in the following table.

Biology 1 EOC Assessment scale scores (325 to 475) for each achievement level:

Level 1	Level 2	Level 3	Level 4	Level 5
325-368	369-394	395-420	421-430	431-475

(f) The achievement levels for the United States History EOC Assessment shall be as shown in the following table.

United States History EOC Assessment scale scores (325 to 475) for each achievement level:

Level 1	Level 2	Level 3	Level 4	Level 5
325-377	378-396	397-416	417-431	432-475

(7) Students who entered grade nine during the 1999-2000 school year through the 2008-2009 school year shall be required to earn passing scores on the Grade 10 FCAT Reading and students who entered grade nine during the 1999-2000 school year through the 2009-2010 school year shall be required to earn passing scores on the Grade 10 FCAT Mathematics. Students who entered grade nine during the 2009-2010 school year and thereafter, shall be required to earn passing scores on the Grade 10 FCAT 2.0 Reading.

(8) For students who entered grade nine during the 2000-2001 school year through the 2009-2010 school year, the passing score for the required reading and mathematics assessments shall be a score equal to or greater than 300 on the 100 to 500 scale, and 1926 for the reading assessment and 1889 for the mathematics assessment on the developmental scale.

(9) Beginning with students entering grade nine during the 2010-2011 school year, the passing score for all assessments required for high school graduation, a high school diploma scholar designation, or for course credit under the Credit Acceleration Program (CAP) under Section 1003.4295, F.S., shall be the minimum scale score in achievement level 3. Since a level 3 score is a satisfactory performance level pursuant to Section 1008.22(3)(e)1., F.S., a level 3 score on an assessment that is a graduation

requirement indicates that the student is on a pathway to college and career readiness.

(10) Beginning with the 2013-14 school year, passing scores shall be designated for each FCAT 2.0 and EOC assessment pursuant to Section 1008.22(3)(e)2., F.S. For FCAT 2.0 Reading, Mathematics, and Science, the passing score shall be the minimum scale score in achievement level 3. For FCAT 2.0 Writing, the passing score shall be a score of 3.5. For Algebra 1, Biology 1, Geometry, and United States History EOC Assessments, the passing score shall be the minimum scale score in achievement level 3.

(11) The Commissioner of Education shall review student performance levels annually and recommend to the State Board of Education whether to maintain the existing passing scores and achievement levels or to increase one or more of the requirements.

(12) The assessments shall be administered according to a schedule approved by the Commissioner.

(13) Students with disabilities may be provided test modifications or accommodations in accordance with the provisions of Rule 6A-1.0943, FAC.

(14) Invalidity of a section of this rule shall not invalidate the remainder of the rule.

Rulemaking Authority 1001.02, 1008.22, 1008.25 FS. Law Implemented 1001.02, 1001.11, 1008.22, 1008.25 FS. History-New 1-24-99, Amended 10-7-01, 1-22-02, 12-23-03, 3-27-06, 3-1-07, 2-25-09, 7-19-10, 2-12-12, 2-3-13, 2-25-14.

#### **6A-1.0943 Statewide Assessment for Students with Disabilities.**

(1) Definitions. For the purposes of this rule, the following definitions apply:

(a) Statewide standardized assessments shall mean the Florida Comprehensive Assessment Test until replaced, statewide standardized end-of-course (EOC) assessments, and the Florida Alternate Assessment.

(b) "Circumstance" shall have the same meaning as defined in Section 1008.212, F.S.

(c) "Condition" shall have the same meaning as defined in Section 1008.212, F.S.

(2) The Department of Education shall assure the participation of students with disabilities to include those students with disabilities as defined by Section 1003.01(3) (a), F.S., or students with disabilities who have been determined eligible and have a plan developed in accordance with Section 504 of the Rehabilitation Act in the statewide standardized assessment program and provide technical assistance to school districts in the implementation of the requirements of this rule including appropriate accommodations for students participating in the statewide standardized assessment program as required by Sections 1008.22(3)(c), and 1003.428(5), F.S.

(3) All students with disabilities will participate in the statewide standardized assessment program based on state standards, pursuant to Rule 6A-1.09401, F.A.C., without accommodations unless the individual educational plan (IEP) team, or the team that develops the plan required under Section 504 of the Rehabilitation Act, determines and documents that the student requires allowable accommodations during instruction and for participation



in a statewide standardized assessment.

(4) Provision of accommodations for students with disabilities participating in the statewide standardized assessment program.

(a) Each school board shall utilize appropriate and allowable accommodations for statewide standardized assessments within the limits prescribed herein and current statewide standardized assessment test administration manuals published by the Florida Department of Education Bureau of K-12 Student Assessment, and Bureau of Exceptional Education and Student Services. Copies of the manuals are available by contacting the Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400. Accommodations are defined as adjustments to the presentation of the statewide standardized assessment questions, methods of recording examinee responses to the questions, scheduling for the administration of a statewide standardized assessment to include amount of time for administration, settings for administration of a statewide standardized assessment, and/or the use of assistive technology/devices to facilitate the student's participation in a statewide standardized assessment. Accommodations that negate the validity of a statewide standardized assessment are not allowable. Within the limits specified in this rule, allowable statewide standardized assessment accommodations are based on current instructional accommodations and accessible instructional materials used by the student in the classroom.

(b) The accommodations described in paragraph (4) (a) of this rule are authorized for any student who has been determined to be an eligible student with a disability pursuant to Section 1003.01(3)(a), F.S. and Rule 6A-6.0331, F.A.C., and has a current IEP, or who has been determined to be a student with a disability with a plan developed in accordance with Section 504 of the Rehabilitation Act. The accommodations must be identified on the student's IEP or the plan developed under Section 504 of the Rehabilitation Act.

(c) The need for any unique accommodations for use on a statewide standardized assessment must be submitted to the Department of Education for approval by the Commissioner of Education. In order to be approved, a unique accommodation must be allowable for use on a statewide standardized assessment and must be used by the student during classroom instruction and for assessments and described as such on the student's IEP or plan developed in accordance with Section 504 of the Rehabilitation Act. When paper-based large print is requested as a unique accommodation for a computer-based test administration, additional documentation must be provided which justifies the student's need for such an accommodation.

(d) District personnel are required to implement the accommodations in a manner that ensures that the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond or directing or leading the student to a particular response. In no case shall the accommodations authorized herein be interpreted or construed as an authorization to provide a student with

assistance in determining the answer to any test item.

(e) Students with disabilities who are not currently enrolled in public schools or receiving services through public school programs and require accommodations in order to participate in the statewide standardized assessment program must have access to accommodations identified in paragraphs (4)(a) and (4)(c) of this rule if the following information is provided:

1. Evidence that the student has been found eligible as a student with a disability as defined by Section 1003.01(3)(a), F.S., or is an eligible student with a disability with a plan developed in accordance with Section 504 of the Rehabilitation Act; and,

2. Documentation that the requested accommodations are regularly used for instruction.

(5) Participation in the Florida Alternate Assessment. The decision that a student with a significant cognitive disability will participate in the Florida Alternate Assessment is made by the IEP team and recorded on the IEP. The following criteria must be met:

(a) The student is unable to master the grade-level general state content standards pursuant to Rule 6A-1.09401, F.A.C., even with appropriate and allowable instructional accommodations, assistive technology, or accessible instructional materials;

(b) The student is participating in a curriculum based on the state standards access points, pursuant to Rule 6A-1.09401, F.A.C., for all academic areas; and

(c) The student requires direct instruction in academics based on access points, pursuant to Rule 6A-1.09401, F.A.C., in order to acquire, generalize, and transfer skills across settings.

(6) Extraordinary exemption. Pursuant to Section 1008.212, F.S., upon approval of the Commissioner, a student with a disability is eligible for an extraordinary exemption from participation in statewide standardized assessments as defined in subsection (1) of this rule.

(a) An IEP team may determine that a student with a disability is prevented by a circumstance or condition as defined in subsection (1) of this rule, from physically demonstrating the mastery of skills that have been acquired and are measured by a statewide standardized assessment and may recommend that an extraordinary exemption from the administration of a statewide assessment be granted. A learning, emotional, behavioral, or significant cognitive disability or the receipt of services through the homebound or hospitalized program in accordance with Rule 6A-6.03020, F.A.C., is not, in and of itself, an adequate criterion for the granting of an extraordinary exemption.

(b) The IEP team, which must include the parent, may submit to the district school superintendent a written request for an extraordinary exemption at any time during the school year, but no later than sixty (60) calendar days before the first day of the administration window of the statewide standardized assessment for which the request is made. A request must include all of the following information:

1. A written description of the student's disabilities, including a specific description of the student's impaired



sensory, manual or speaking skills;

2. Written documentation of the most recent evaluation data;

3. Written documentation, if available, of the most recent administration of statewide standardized assessments;

4. A written description of the circumstance's or condition's, as defined in subsection (1) of this rule, effect on the student's participation in statewide standardized assessments; and

5. Written evidence that the student has had the opportunity to learn the skills being tested;

6. Written evidence that the student has been provided appropriate instructional accommodations;

7. Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student's IEP which are allowable in the administration of a statewide standardized assessment; and

8. Written evidence of the circumstance or condition as defined in subsection (1) of this rule.

(c) Based on the documentation provided by the student's IEP team, the school district superintendent shall recommend to the Commissioner of Education whether an extraordinary exemption from participation in a given statewide assessment administration be granted or denied. The school district's recommendation and accompanying documentation must be sent to the Florida Department of Education, Office of the Commissioner, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(d) If the parent disagrees with the IEP team's recommendation, the dispute resolution methods as described in Rule 6A-6.03311, F.A.C., shall be made available to the parent.

(e) Upon receipt of the request, documentation, and recommendation, the Commissioner shall verify the information documented, make a determination, and notify the parent and the district school superintendent in writing within thirty (30) calendar days after the receipt of the request whether the exemption has been granted or denied. In order for an extraordinary exemption to be granted by the Commissioner, all required documentation must be submitted and must provide sufficient evidence that the identified circumstance or condition prevents the student from physically demonstrating the mastery of skills that have been acquired and are measured by the statewide standardized assessment. If the Commissioner denies the exemption, the notification must state the reasons for the denial.

(f) If the Commissioner grants the exemption, the student's progress must be assessed in accordance with the goals established in the student's IEP.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01, 1003.428(5), 1003.571, 1008.212, 1008.22(3), (10) FS. Law Implemented 1003.01, 1003.428(5), 1003.571, 1008.212, 1008.22(3) FS. History—New 9-12-78, Amended 3-4-84, Formerly 6A-1.943, Amended 6-12-90, 9-17-01, 7-1-10, 1-5-14.

#### 6A-1.09430 Florida Alternate Assessment Requirements.

(1) The statewide program of educational assess-

ment required by Section 1008.22(3)(c)11., F.S., shall be developed under the direction and supervision of the Commissioner of Education and shall be titled the Florida Alternate Assessment (FAA). It shall be:

(a) Kept secured at all times.

(b) Provided to all school districts in the quantity needed for the students in the district.

(c) Administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of test administration manuals and other written communications, as required, and provided to school districts prior to each test.

(d) Revised and updated as needed.

(2) The test shall be developed in consultation with teachers and other appropriate professionals and shall be approved by the Commissioner prior to being administered to students. The FAA shall:

(a) Consist of four (4) sections: one (1) measuring reading skills, one (1) measuring mathematics skills, one (1) measuring science skills, and one (1) measuring writing skills.

(b) Be derived from the skills adopted in Rule 6A-1.09401, F.A.C.

(3) The FAA shall be administered as follows:

(a) All eligible students as defined in Rule 6A-1.0943, F.A.C., in grades three through ten shall take the reading and mathematics tests. All eligible students in grades five, eight, and eleven shall take the science test. All eligible students in grades four, eight, and ten shall take the writing test.

(b) Provisions shall be made by the Commissioner to permit the test to be administered to home school students and private school students under conditions which preserve the security of the test and require the public school districts to be responsible for the test administration procedures.

(4) Examinee scores on FAA Reading, Mathematics, Science and Writing shall be reported on a raw score scale from 0 to 144 defined by the baseline test administered during January and February 2008. Each examinee shall receive a total score for each subject area.

(5) The total scores on FAA Reading, Mathematics, Science and Writing are also reported on an achievement-level scale. The total scores that correspond to each achievement level are shown below. Beginning with the effective date of this rule, the achievement levels for Reading, Mathematics, Science and Writing in the first phase of implementation shall be as shown in the following tables.

(a) Reading grade-level raw scores (0-144) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
3	0-23	24-39	40-62	63-89	90-84	85-98	99-105	106-119	120-144
4	0-27	28-43	44-62	63-71	72-85	86-98	99-106	107-117	118-144
5	0-28	29-43	44-62	63-70	71-85	86-98	99-110	111-122	123-144
6	0-27	28-44	45-62	63-77	78-88	89-98	99-111	112-123	124-144
7	0-27	28-44	45-62	63-74	75-89	90-98	99-112	113-126	127-144
8	0-25	26-44	45-62	63-73	74-88	89-98	99-111	112-126	127-144
9	0-25	26-42	43-62	63-73	74-89	90-98	99-115	116-126	127-144
10	0-27	28-42	43-62	63-72	73-87	88-98	99-113	114-126	127-144

(b) Math grade-level raw scores (0-144) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
3	0-22	23-38	39-57	58-70	71-86	87-98	99-110	111-125	126-144
4	0-22	23-41	42-57	58-69	70-85	87-98	99-110	111-125	127-144
5	0-24	25-39	40-57	58-72	73-85	87-98	99-110	111-123	124-144
6	0-25	26-38	39-57	58-71	72-87	88-98	99-111	112-125	127-144
7	0-25	26-40	41-57	58-80	70-85	87-98	99-110	111-125	127-144
8	0-26	27-40	41-57	58-80	70-85	88-98	99-110	111-125	127-144
9	0-23	24-41	42-57	58-70	71-90	91-98	99-107	108-130	131-144
10	0-28	29-44	45-57	58-80	70-91	92-98	99-108	109-129	130-144

(c) Science grade-level raw scores (0-144) for each achievement level - step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
5	0-22	23-38	39-58	59-75	76-87	88-102	103-114	115-124	125-144
8	0-23	24-39	40-58	59-71	72-84	85-102	103-113	114-124	125-144
11	0-23	24-39	40-58	59-71	72-85	86-102	103-111	112-122	123-144

(d) Writing grade-level raw scores (0-144) for each achievement level - step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
4	0-23	24-35	36-63	64-70	71-85	87-98	99-111	112-128	129-144
8	0-27	28-40	41-63	64-71	72-85	87-98	99-111	112-125	126-144
10	0-24	25-41	42-63	64-73	74-86	87-98	99-111	112-125	127-144

(6) The Commissioner of Education shall review annually student performance levels and recommend amendments to the existing achievement levels adopted in rule to the State Board of Education as necessary.

(7) The test shall be administered according to a schedule approved by the Commissioner.

(8) Invalidity of a section of this rule shall not invalidate the remainder of the rule.

Rulemaking Authority 1001.02, 1008.22 FS. Law Implemented 1001.11, 1008.22, 1008.25 FS. History-New 5-3-10.

#### 6A-1.09441 Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) The program in which the student is in membership shall be one of the programs listed in Section 1011.62(1)(c), F.S.

(2) The course or program in which the student is in membership shall be an educational activity which constitutes a part of the instructional program approved by the district school board.

(3) The student shall be under the supervision of an instructional staff member as defined in Section 1012.01(2), F.S.

(4) The course or program shall be listed in the "Course Code Directory and Instructional Personnel Assignments" for the year in which the student is in membership.

(5) The "Course Code Directory and Instructional Personnel Assignments 2014-2015," (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03701>) is hereby incorporated by reference and made a part of this rule.

The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from the Office of Articulation, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses and course descriptions for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved. To request a new course, complete Form CCD01, Course Code Directory Request to Add a New Course, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03702>) which is hereby incorporated by reference and made a part of this rule, effective March 2014. A hard copy may be obtained by contacting the Office of Articulation, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, or [www.fldoe.org/articulation/CCD/](http://www.fldoe.org/articulation/CCD/).

Rulemaking Authority 1001.02(1), 1011.62(1)(u) FS. Law Implemented 1011.62(1) FS. History-New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-18-96, 7-17-97, 8-12-98, 5-3-99, 5-3-01, 10-15-01, 7-30-02, 4-21-05, 11-21-05, 7-27-06, 1-18-07, 5-19-08, 1-5-09, 6-22-09, 5-3-10, 8-21-11, 9-5-12, 11-3-13, 4-2-14.

#### 6A-1.0955 Education Records.

(1) Purposes. This rule applies to education records maintained to facilitate the instruction, guidance, and educational progress of pupils and adult students in programs operated under the authority and direction of a district school board or other agency or institution as defined in Section 1002.22(1), F.S. This rule is intended to further the intent of Section 1002.22(2), F.S., that the rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and Sections 1002.22 and 1002.221, F.S. For the purpose of this rule, the term "education records" refers to those records that are included in the definition of "education records" found in 34 CFR § 99.3.

(2) Information contained in education records shall be classified as follows:

(a) Category A: Information for each student which shall be kept current while the student is enrolled and retained permanently in the manner prescribed by Section 1001.52(2), F.S.

(b) Category B: Information which is subject to periodic review and elimination when the information is no longer useful in the manner prescribed by Section 1001.52(3), F.S.

(3) Content of Category A records. The following information shall be maintained for each student:

- (a) Student's full legal name,
- (b) Authenticated birthdate, place of birth, race, ethnicity and sex,
- (c) Last known address of the student,
- (d) Names of the student's parent(s) or guardian(s),
- (e) Name and location of last school attended,

(f) Number of days present and absent, date enrolled and date withdrawn,

(g) Courses taken and record of achievement, such as grades, units, or certification of competence,

(h) Date of graduation or date of program completion, and

(i) Records of requests for access to and disclosure of personally identifiable information from the education records of the student as required by FERPA.

(4) Content of Category B records. These records may include but are not limited to the following:

(a) Health information and health care plans,

(b) Family background data,

(c) Standardized test scores,

(d) Educational and career plans,

(e) Honors and activities,

(f) Work experience reports,

(g) Teacher comments,

(h) Reports of student services or exceptional student staffing committees including all information required by Section 1001.42(13), F.S.,

(i) Correspondence from community agencies or private professionals,

(j) Driver education certificate,

(k) List of schools attended,

(l) Written agreements of corrections, deletions or expunctions as a result of meetings or hearings to amend educational records, and

(m) Records designated for retention by the Florida Department of State in General Records Schedule GS7 for Public Schools Pre-K - 12, Adult and Vocational/Technical.

(5) School districts shall maintain sufficient information, to include social security numbers for adult students enrolled in a postsecondary program so that they can be located after they have either withdrawn or completed a program of study.

(6) Each school board shall adopt a policy for educational records which shall include:

(a) Provisions for an annual written notice and other notices necessary to inform the adult students or the parent or guardian of students of their rights as defined in Section 1002.22(2), F.S., and FERPA. The district shall develop methods of notice for informing the parent or guardian of students, or adult students unable to comprehend a written notice in English,

(b) Provisions for permitting the adult student or the parent or guardian of the student who is or has been in attendance in the school district to inspect and review the education records of the student. The district shall comply with a request within a reasonable period of time, but in no case more than thirty (30) days after it has been made,

(c) Provisions for adult students or the parent or guardian of students to exercise the right of waiver of access to confidential letters or statements. School districts may not require that adult students or the parent or guardian of students waive any of their rights under Section 1002.22(2), F.S., and FERPA,

(d) A schedule of fees and charges for copies of education records which charges no more than the fees and

charges for public records as set forth in Section 119.07, F.S. In no circumstance shall the cost reflect the costs to retrieve the education records,

(e) A listing of the types and locations of education records maintained by the educational agency and the titles and addresses of the officials responsible for those records,

(f) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of students is not required,

(g) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of a student, as appropriate, is required, and provisions for maintaining records of requests and disclosures,

(h) Provisions for the maintenance and security of student records, including procedures to ensure the confidentiality of student records and safeguard records from unauthorized or unintentional access,

(i) Provisions for disclosure of personally identifiable information in health and safety emergencies,

(j) Provisions for disclosure of directory information,

(k) Provisions for challenging the content of any record which the adult student or the parent or guardian of a student believe to be inaccurate, misleading or a violation of the right of privacy and for providing an opportunity for amendment of such information, and

(l) Provisions for ensuring the accuracy of information maintained and for periodic review and elimination of information no longer useful, in the manner prescribed by Section 1001.52(3), F.S.

(7) Procedures for transfer of education records.

(a) The transfer of records shall be made immediately upon written request of an adult student, a parent or guardian of a student or a receiving school. The principal or designee shall transfer a copy of all Category A and Category B information and shall retain a copy of Category A information; however, student records which are required for audit purposes for programs listed in Section 1010.305, F.S., shall be maintained in the district for the time period indicated in Rule 6A-1.04513, F.A.C.

(b) The transfer of education records shall not be delayed for nonpayment of a fee or fine assessed by the school.

(8) Security of education records.

(a) The school principal or designee shall be responsible for the privacy and security of all student records maintained in the school.

(b) The superintendent of schools or designee shall be responsible for the privacy and security of all student records that are not under the supervision of a school principal.

(c) Institutions and agencies that are not part of a school district shall designate the office or position responsible for the privacy and security of all student records.

Rulemaking Authority 1001.02(1), 1002.22(3), 1003.25(2), 1008.405 FS. Law Implemented 1001.42(13), 1001.52(2), (3), 1002.22(2), (3), 1002.221, 1003.25, 1008.386, 1008.39, 1008.405 FS. History-New 4-11-70, Repromulgated 12-5-74, Revised 6-1-75, Amended 10-7-75, 2-21-77, 3-1-78, 5-24-81, Formerly 6A-1.955, Amended 6-17-87, 1-2-95, 10-25-10.

#### **6A-1.0985 Entry Into Kindergarten and First Grade by Out-of-State Transfer Students.**

(1) Any student who transfers from an out-of-state public school and who does not meet regular age requirements for admission to Florida public schools shall be admitted upon presentation of the data required in subsection (3).

(2) Any student who transfers from an out-of-state nonpublic school and who does not meet regular age requirements for admission to Florida public schools may be admitted if the student meets age requirements for public schools within the state from which he or she is transferring, and if the transfer of the student's academic credit is acceptable under rules of the school board. Prior to admission, the parent or guardian must also provide the data required in subsection (3).

(3) In order to be admitted to Florida schools, such a student transferring from an out-of-state school must provide the following data:

(a) Official documentation that the parent(s) or guardian(s) was a legal resident(s) of the state in which the child was previously enrolled in school;

(b) An official letter or transcript from proper school authority which shows record of attendance, academic information, and grade placement of the student;

(c) Evidence of immunization against communicable diseases as required in Section 1003.22, Florida Statutes;

(d) Evidence of date of birth in accordance with Section 1003.21, Florida Statutes; and

(e) Evidence of a medical examination completed within the last twelve (12) months in accordance with Section 1003.21, Florida Statutes.

Specific Authority 1001.02(1) FS. Law Implemented 1003.21(2) FS. History- New 7-29-82, Formerly 6A-1.985.

#### **6A-1.099 Cooperative Projects and Activities.**

(1) District school boards are authorized to enter into cooperative or joint projects and activities as provided in Section 1001.42(14), F.S.; provided however, that any disagreements which cannot be satisfactorily resolved by the parties to such agreements may be referred to the Commissioner whose decision shall be binding on all cooperating boards.

(2) District school boards are authorized to establish educational consortia which are designed to provide joint programs and services to cooperating school districts.

(a) Establishment of consortium. Cooperating districts shall establish the consortium by a resolution of each school board. A district school board choosing to join a consortium shall by resolution declare its participation by setting forth at least the following:

1. The specific needs of the district which will be met by consortium activities.

2. The services to be received by the district.

3. A beginning date of entry into the agreement.

4. A termination date for the agreement or an annual option renewal date when the objectives to be achieved exceed one (1) fiscal year.

5. Amounts of funds to be paid annually for the ser-

vices received or the specific method of computation used to determine such amounts.

(b) District of record. Cooperating districts shall designate a district of record for contractual and reporting purposes. The school board of the district of record shall be the responsible entity for contracting for services and materials necessary for fulfillment of consortium programs and services to member districts. The district of record shall provide a monthly financial report to member districts and shall separately report on the financial status of the consortium in the annual financial report of the district to the Commissioner. The district of record shall be entitled to reasonable compensation for accounting and other services performed. It may also be compensated for use of physical facilities.

(c) Consortium board of directors. The superintendent of schools of cooperating districts or his/her designee shall constitute the consortium board of directors. The consortium board of directors shall determine the products and services to be provided by the consortium; however, in all contractual matters the school board of the district of record must act on proposed actions of the consortium. The board of directors shall establish a uniform method for participating districts to evaluate services.

(d) Settlement of disagreements. In the event a controversy arises and agreement cannot be reached after the consortium is formed and operating, the matter may be referred jointly by the cooperating school boards or by any individual board to the Commissioner. The Commissioner's decision shall be binding on all school boards.

(e) Accounting. All financial transactions of the consortium are to be accounted for separately by the district of record in the appropriate proprietary fund as determined by generally accepted accounting principles. Income to the fund will be composed of payments from cooperating districts, including the district of record, receipts from goods and services provided non-member districts, and the receipts from grants to the consortium. Cooperating districts, including the district of record, may make payments to the consortium in advance of delivery of services and products. Disbursements from the fund shall include payments for products and services, including agreed-upon services furnished by the district of record, and any refunds due cooperating districts. All transactions with the district of record shall be recorded in the fund. Accounts used shall be those prescribed in the publication entitled, Financial and Program Cost Accounting and Reporting for Florida Schools, as incorporated by reference in Rule 6A-1.001, F.A.C.

(f) Petty cash. The school board of the district of record may authorize a petty cash fund for the consortium in an amount commensurate with the established need, but not to exceed three hundred dollars (\$300).

(g) Employment of personnel. The consortium board of directors shall recommend establishment of positions and individuals for appointment to the district of record. Formal recommendation and approval of personnel shall be accomplished in accordance with statutory authority. Personnel shall be employed under the salary schedule



and personnel policies of the district of record and shall be deemed to be public employees of the district of record. Where personnel are employed in an instructional capacity, contract status shall be consistent with provisions of Section 1012.33, F.S.

(h) Physical property. Ownership and control of any physical property shall be vested in the district of record. The district of record may acquire such property and charge the consortium a negotiated use charge. The consortium may advance all or part of the acquisition price to the district of record.

(i) Allocation of common costs. Common costs are defined as those costs which are applicable to all consortium activities or to all users of certain products or services. The consortium board of directors shall recommend to the district of record equitable bases for the allocation of common costs. These bases shall be used in billing cooperative districts for common costs or in establishing pricing for products and services. The consortium board of directors shall recommend pricing adjustments as necessary to achieve break-even status.

Rulemaking Authority 1001.02(1), 1001.42(14) F.S. Law Implemented 1001.42(14) F.S. History-New 2-20-64, Amended 9-17-72, Repromulgated 12-5-74, Amended 6-9-81, 9-27-84, Formerly 6A-1.99, Amended 5-26-02, 4-21-09.

#### **6A-1.09941 State Uniform Transfer of High School Credits.**

The purpose of this rule is to establish uniform procedures relating to the acceptance of transfer work and credit for students entering Florida's public schools Effective July 1, 2013, the procedures shall be as follows:

(1) Credits and grades earned and offered for acceptance shall be based on official transcripts and shall be accepted at face value subject to validation if required by the receiving school's accreditation. If validation of the official transcript is deemed necessary, or if the student does not possess an official transcript or is a home education student, credits shall be validated through performance during the first grading period as outlined in subsection (2) of this rule. Assessment requirements for transfer students under Section 1003.4282, F.S., must be satisfied.

(2) Validation of credits shall be based on performance in classes at the receiving school. A student transferring into a school shall be placed at the appropriate sequential course level and should have a minimum grade point average of 2.0 at the end of the first grading period. Students who do not meet this requirement shall have credits validated using the Alternative Validation Procedure, as outlined in subsection (3) of this rule.

(3) Alternative Validation Procedure. If validation based on performance as described above is not satisfactory, then any one of the following alternatives shall be used for validation purposes as determined by the teacher, principal, and parent:

(a) Portfolio evaluation by the superintendent or designee;

(b) Written recommendation by a Florida certified teacher selected by the parent and approved by the prin-

cipal;

(c) Satisfactory performance in courses taken through dual enrollment or at other public or private accredited schools;

(d) Satisfactory performance on nationally-normed standardized subject area assessments;

(e) Satisfactory performance on a statewide, standardized assessment; or

(f) Written review of the criteria utilized for a given subject provided by the former school.

Students must be provided at least ninety (90) days from date of transfer to prepare for assessments outlined in paragraphs (3)(d) and (e) of this rule if required.

Rulemaking Authority 1003.25, 1003.4282 F.S. Law Implemented 1003.25, 1003.4282 F.S. History-New 8-28-00, Formerly 6-1.099, Amended 9-22-03, 4-30-12, 3-25-14.

#### **6A-1.09942 State Uniform Transfer of Students in the Middle Grades.**

The purpose of this rule is to establish uniform procedures relating to the acceptance of transfer work and courses for students entering Florida's public schools composed of middle grades 6, 7, and 8 from out of state or out of country. The procedures shall be as follows:

(1) Grades earned and offered for acceptance shall be based on official transcripts and shall be accepted at face value subject to validation if required by the receiving school's accreditation. If validation of the official transcript is deemed necessary, or if the student does not possess an official transcript or is a home education student, successful completion of courses shall be validated through performance during the first grading period as outlined in subsection (2) of this rule.

(2) Validation of courses shall be based on performance in classes at the receiving school. A student transferring into a school shall be placed at the appropriate sequential course level and should be passing each required course at the end of the first grading period. Students who do not meet this requirement shall have courses validated using the Alternative Validation Procedure, as outlined in subsection (3) of this rule.

(3) Alternative Validation Procedure. If validation based on performance as described above is not satisfactory, then any one of the following alternatives identified in the district student progression plan shall be used for validation purposes as determined by the teacher, principal, and parent:

(a) Portfolio evaluation by the superintendent or designee;

(b) Demonstrated performance in courses taken at other public or private accredited schools;

(c) Demonstrated proficiencies on nationally-normed standardized subject area assessments;

(d) Demonstrated proficiencies on the FCAT; or

(e) Written review of the criteria utilized for a given subject provided by the former school.

Students must be provided at least ninety (90) days from date of transfer to prepare for assessments outlined in paragraphs (3)(c) and (d) of this rule if required.



**6A-1.0995 Form of High School Diplomas and Certificates of Completion.**

Pursuant to Sections 1003.428, 1003.4282, and 1003.438, F.S., the form of the Standard Diploma, the Special Diploma, State of Florida High School Performance-Based Diploma, the Certificate of Completion and the Special Certificate of Completion shall contain the wording and be in the form prescribed herein.

**(1) Standard Diploma:**

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)

having satisfactorily completed all requirements of law and standards for high school graduation as prescribed by the State Board of Education and the District School Board is hereby awarded this

**DIPLOMA**

by order of the \_\_\_\_\_ County District School Board

(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

**(2) Special Diploma:**

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)

having satisfactorily completed all requirements of law and standards for high school graduation prescribed for exceptional students by the State Board of Education and the District School Board is hereby awarded this

**DIPLOMA**

by order of the \_\_\_\_\_ County District School Board

(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

**(3) State of Florida High School Performance-Based**

Diploma:  
Name of School  
City, State  
Florida Seal  
This certifies that

(Name of Student)

having satisfactorily completed the requirements for the State of Florida High School Performance-Based Diploma as prescribed by the State Board of Education, and the District School Board is hereby awarded this

**DIPLOMA**

under the authority of the Florida Department of Education and by order of the \_\_\_\_\_ County District School Board

(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

**(4) Certificate of Completion:**

Name of School  
City, State  
Florida Seal

This certifies that  
(Name of Student)

having satisfactorily completed all requirements of law, is hereby awarded this

**CERTIFICATE OF COMPLETION**

by order of the \_\_\_\_\_ County District School Board

(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

**(5) Special Certificate of Completion:**

Name of School  
City, State  
Florida  
Seal

This certifies that  
(Name of Student)

having completed the minimum number of credits for high school graduation prescribed for exceptional students and other applicable requirements prescribed by the rules of the District School Board, is hereby awarded this

**CERTIFICATE OF COMPLETION**

by order of the \_\_\_\_\_ County District School Board

(Date of Award)

\_\_\_\_\_  
Superintendent  
of Schools

\_\_\_\_\_  
Chairman,  
School Board

\_\_\_\_\_  
Principal

(6) Districts must determine student eligibility for designations of each of the following accomplishments and include on standard diplomas issued beginning in July 2013 as applicable:

(a) Completion of the scholar designation requirements in accordance with Section 1003.4285, F.S.

(b) Completion of the merit designation requirements in accordance with Section 1003.4285, F.S.

(7) Designations may be in the form of a seal, sticker, stamp, or text.

(8) Each district school board shall produce or have produced the Diplomas and Certificates of Completion in the quantity and as needed to be awarded to the students in the public schools of that district. Any person producing copies shall, pursuant to Section 15.03(3), F.S., and Rule 1-2.0021, F.A.C., secure approval from the Department of State to print the State Seal on such copies.

(9) The Commissioner is authorized, upon written request from any district school board, to approve modification in the form or format of the diplomas or certificates prescribed herein; however, such modification shall not substantively alter the content or the wording of the diplomas or certificates.

Rulemaking Authority 1001.02, 1003.428, 1003.4282, 1003.435, 1003.438, 1003.53 FS. Law Implemented 1001.02, 1003.428, 1003.4282, 1003.4285, 1003.435, 1003.438, 1003.53 FS. History-New 11-14-78, Amended 6-9-81, Formerly 6A-1.995, Amended 4-3-90, 1-5-09, 7-19-10, 3-25-14.

#### **6A-1.09961 Graduation Requirements for Certain Students with Disabilities.**

Each school board shall, pursuant to Section 1003.438, Florida Statutes, prescribe special requirements for graduation for students who have been properly identified as educable mentally handicapped, trainable mentally handicapped, hearing impaired, specific learning disabled, emotionally handicapped, profoundly handicapped, physically impaired, or language impaired. The school board shall make provision for each student to use basic, vocational, and exceptional student education courses as appropriate for meeting graduation requirements. Any such student completing the special requirements shall be awarded a Special Diploma in the form prescribed by subsection 6A-1.0995(2), F.A.C.

(1) Special Diploma Options. School boards may award Special Diplomas based on two (2) options.

(a) One option shall include procedures for determining and certifying mastery of student performance standards for a special diploma for students who enter ninth grade in or before school year 1998-1999 as prescribed in subsections (3)-(11) of this rule; or higher levels of student performance standards for students with disabilities adopted by the district school board; and minimum number of course credits specified by the district school board. For students entering ninth grade in or after 1999-2000 mastery is determined as indicated in subsections (12)-(13) of this rule.

(b) The second option shall include procedures for determining and certifying mastery of demonstrated employment and community competencies in accordance

with subsection (14) of this rule.

(2) Diploma procedures. Each school board shall develop procedures for ensuring that students may select and move between the Special Diploma options prescribed in subsection (1) of this rule, if both options are provided by the school district, and between courses of study leading to Standard or Special Diplomas, as appropriate.

(a) The individual educational plan (IEP) committee shall document whether the student is pursuing a course of study leading toward a Standard or Special Diploma on the IEP developed during the student's eighth grade year, or the IEP developed during the school year of the student's fourteenth birthday, whichever occurs first. This decision shall be reviewed annually.

(b) Nothing contained in this rule shall be construed to limit or restrict the right of student with a disability solely to a Special Diploma. The parents of each student eligible for a Special Diploma for students shall be notified through the IEP process of the options available under this rule.

(c) Special Diploma requirements shall be included in the district pupil progression plan adopted pursuant to Section 1008.25, Florida Statutes.

(3) Educable mentally handicapped. Student performance standards for students identified as educable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level IV; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as educable mentally handicapped.

(4) Trainable mentally handicapped. Student performance standards for students identified as trainable mentally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level III; Writing, Level IV; Language, Level III; Mathematics, Level III; and Social and Personal, Level III as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as trainable mentally handicapped.

(5) Hearing impaired. Student performance standards for students identified as hearing impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level IV; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as hearing impaired.

(6) Physically impaired. Student performance standards for students identified as physically impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level

V; Language, Level III; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as physically impaired.

(7) Language impaired. Student performance standards for students identified as language impaired shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level VI as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as language impaired.

(8) Emotionally handicapped. Student performance standards for students identified as emotionally handicapped shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level IV as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as emotionally handicapped.

(9) Specific learning disabilities. Student performance standards for students identified as specific learning disabled shall include:

(a) Mastery of the following student performance standards at the levels of Reading, Level V; Writing, Level V; Language, Level VI; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, F.A.C.; and

(b) Completion of the minimum number of course credits prescribed by the school board for students identified as specific learning disabled.

(10) Profoundly handicapped. Student performance standards for students identified as profoundly handicapped.

(a) Students with profound handicaps shall include students identified as profoundly mentally handicapped, dual-sensory impaired, autistic, or severely emotionally disturbed as defined by Rule 6A-6.03021, F.A.C., and

(b) The determination of the requirements for a Special Diploma for students identified as profoundly handicapped shall be consistent with the requirements for any other exceptional students identified in this rule and shall be specified in the student's IEP.

(11) Eleventh grade student performance standards. For students defined in this rule, mastery of the eleventh grade, student performance standards, through successful completion of courses, as defined in subsection 6A-1.0941(1), F.A.C., shall be accepted in lieu of mastery of the student performance standards noted above for awarding of a special diploma.

(12) Special diploma requirements. For students entering ninth grade in or after 1999-2000, special diploma

requirements shall include:

(a) Demonstration of proficiency at the independent, supported, or participatory level of each Sunshine State Standard for Special Diploma prescribed in paragraph 6A-1.09401(1)(h), F.A.C., as determined through the IEP process, and

(b) Completion of the minimum number of course credits for a special diploma as prescribed by the school board.

(13) Sunshine State Standards. For students with disabilities as defined in this rule, mastery of the Sunshine State Standards through successful completion of courses that meet graduation requirements for a standard diploma, specified in paragraphs 6A-1.09401(1)(a)-(g), F.A.C., shall be accepted in lieu of Sunshine State Standards for Special Diploma noted in subsection (12) of this rule for awarding of a special diploma.

(14) Employment and community competencies. Each school board's requirements for demonstration of mastery of specified employment and community competencies shall ensure:

(a) The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies;

(b) The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester, and paid a minimum wage in compliance with the requirements of the Fair Labor Standards Act;

(c) The student has mastered the employment and community competencies specified in a training plan. The training plan shall be developed and signed by the student, parent, teacher, and employer prior to placement in employment and shall identify the following:

1. The expected employment and community competencies;

2. The criteria for determining and certifying mastery of the competencies;

3. The work schedule and the minimum number of hours to be worked per week; and

4. A description of the supervision to be provided by school district staff.

Specific Authority 1001.03(1), 1003.438 FS. Law Implemented 1003.02(1)(a), 1003.438 FS. History-New 10-31-88, Amended 6-14-94, Formerly 6A-1.0996, Amended 10-11-99, Repromulgated 1-25-00, Formerly 6-1.0996.

### **6A-1.099828 School Accountability for Exceptional Student Education (ESE) Center Schools.**

(1) Purpose. The purpose of this rule is to implement the requirements of Section 1008.3415, F.S.

(2) Definitions. The following definitions apply in this rule:

(a) "Emergent" means a student who scores at Level 1, 2 or 3 on the Florida Alternative Assessment as set out in Rule 6A-1.09430, F.A.C.

(b) "Exceptional Student Education (ESE) Center School" means, for accountability purposes, a school specifically designed to meet the needs of students with disabilities, that has a unique master school identification number assigned under Rule 6A-1.0014, F.A.C., and in

which all students in attendance in grades K-12 are identified as students with a disability on student demographic records submitted by Florida school districts during the October (Survey 2) FTE reporting period as specified in Rule 6A-1.0451, F.A.C.; and a special day school as defined in Rule 6A-6.0311, F.A.C., where all students in attendance in K-12 are students with disabilities as indicated in Section 1007.02(2), F.S.

(c) "Home school" means the school in which the student would be enrolled if not enrolled in the ESE center school.

(3) ESE Center School List.

(a) Annually, the Department of Education will provide each district with a list of schools identified as ESE center schools.

(b) Prior to calculation of school improvement ratings under Rule 6A-1.099822, F.A.C., and school grades under Rule 6A-1.09981, F.A.C., school districts will be provided the opportunity to submit additions to and deletions from the ESE center school list. Documentation required to make an addition or deletion to the list shall include:

1. Statement of the current mission of the school;
2. Description of the targeted student population;
3. Explanation of enrollment procedures; and
4. Verification by the superintendent that the school meets the criteria for ESE center schools described in paragraph (2)(b) of this rule.

(4) An ESE center school shall have the option of earning a school grade, pursuant to Section 1008.34, F.S., and Rule 6A-1.09981, F.A.C., or a school improvement rating, pursuant to Section 1008.341, F.S., and Rule 6A-1.099822, F.A.C.

(5) An ESE center school's grade or school improvement rating shall be calculated by the Department of Education based upon the statutes and rules noted in subsection (4) of this rule except for the following: the achievement scores and learning gains of a student who has not been enrolled in a public school within the district other than an ESE center school for grades K-12 shall not be included in the calculation of the home school's grade if the student scores as emergent.

(6) School districts shall annually report to the Department of Education during student membership survey 3 as specified in Rule 6A-1.0451, F.A.C., the home school of each student enrolled in an ESE center school.

Rulemaking Authority 1001.02(1), (2), 1008.34, 1008.341, 1008.3415 FS.  
Law Implemented 1008.34, 1008.341, 1008.3415 FS. History-New 12-3-13.

# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-3

### Transportation

#### **6A-3.001 Basic Principles for Transportation of Students.**

(1) Where it is practicable to provide improved transportation service and school facilities for students from an area in adjoining districts, district lines shall not interfere with the designation of a school attendance area composed of areas of two (2) or more districts. It shall be the duty of school boards and superintendents of the districts involved to develop a plan which will assure the children of the area adequate school advantages. Students shall not be transported at public expense across district lines unless an annual agreement exists between the respective school boards. This agreement shall outline the responsibility of each district for providing school facilities, including transportation, and specify which district shall have exclusive responsibility for providing and operating the equipment. Unless the agreement shall stipulate otherwise, the rules and regulations of the district in which the bus is traveling shall be observed.

(2) All school bus routes shall be so planned and adjusted to the capacities of available equipment and school buses should be so chosen and assigned to routes and attendance areas that insofar as practicable the full capacity of each bus will be utilized, without standees, to serve students whose homes are beyond reasonable walking distance of the assigned public school center.

(3) A reasonable walking distance for any student who is not otherwise eligible for transportation pursuant to Section 236.083, Florida Statutes, is any distance not more than two (2) miles between the home and school or one and one-half (1 1/2) miles between the home and the assigned bus stop. Such distance shall be measured from the closest pedestrian entry point of the property where the student resides to the closest pedestrian entry point of the assigned school building or to the assigned bus stop. The pedestrian entry point of the residence shall be where private property meets the public right-of-way. The district shall determine the shortest pedestrian route whether or not it is accessible to motor vehicle traffic.

Specific Authority 229.053(1), 234.01, 236.083 FS. Law Implemented 230.23(8), 230.33(10), 234.01, 236.083 FS. History - Amended 3-26-66, 9-17-72, Revised 7-20-74, Repromulgated 12-5-74, Formerly 6A-3.01, Amended 3-12-86, 11-15-94.

#### **6A-3.0121 Responsibility of School District and Parents or Guardians for Students Who Are Transported at Public Expense.**

(1) The school district shall determine what safety measures shall be used in the transportation of students. Such safety measures shall include the designation of routes, bus turning areas, and student stop locations which shall not be left to the discretion of the bus operator or the parents or guardians of the students. The district shall provide belt cutters meeting Florida School Bus Specifications on any school bus equipped with passenger securement or restraint straps. The district shall deter-

mine the method of securement or positioning of students with special needs.

(2) The school district shall exercise additional specific powers and responsibilities as follows:

(a) The district shall provide bus operators and attendants instructions, in writing, as to any special conditions or non-medical care which a student may need while on the bus.

(b) The district shall instruct bus operators, and attendants if used, in their responsibilities for students who are transported at public expense as follows:

1. The operator or attendant of a bus transporting students shall remain with the bus so that students aboard will be under supervision at all times, except to call for assistance in case of an emergency or accident involving the students or bus.

2. In cases where a student with physical disabilities is unable to leave the area of a student stop without assistance, the school bus operator shall not assume responsibility for such assistance except in an emergency which threatens the safety of such student or students.

3. The operator and attendant shall be provided training related to students; however, the operator and attendant shall not give medicine and shall limit his or her assistance to that which may normally be expected of a reasonable, prudent person or as specified in the student's Individual Educational Plan.

(c) The district shall inform parents, guardians, and students at least annually in writing of their responsibilities and related district policies as follows:

1. To ensure the safe travel of their students during the portions of each trip to and from school and home when the students are not under the custody and control of the school district, including during each trip to and from home and the assigned bus stop when the school district provides bus transportation.

2. To ensure that students ride only in their assigned school buses and get off only at assigned bus stops, except when the district has approved alternative buses or arrangements.

3. To ensure students are aware of and follow the district's adopted code of student conduct while the students are at school bus stops and to provide necessary supervision during times when the bus is not present.

4. To ensure that, when the physical disability of the student renders the student unable to get on and off the bus without assistance, the parent or guardian provides the necessary assistance to help the student get on and off at the bus stop, as required by district policy or the student's individual educational plan.

(3) Knowledge, skills and abilities related to student management techniques and characteristics of the students shall be considered when selecting or assigning operators and attendants for routes serving students.

Specific Authority 1001.02 FS. Law Implemented 1001.02, 1001.42(4)(I), 1003.21(1)(e), 1006.21 FS. History-New 3-26-66, Amended 9-17-72, Repromulgated 12-5-74, Formerly 6A-3.121, Amended 11-15-94, 11-26-06.



### 6A-3.0171 Responsibilities of School Districts for Student Transportation.

Each school district shall exercise specific powers and responsibilities, as follows:

(1) Responsibilities of Superintendent. It shall be the duty of the superintendent, acting as executive officer for the school board to exercise functions and to perform duties listed below:

(a) To recommend to the school board such policies, rules and regulations, plans and procedures as the superintendent shall deem desirable or necessary for provisions of satisfactory transportation facilities and equipment in the district, and as executive officer of the board, to administer the transportation service and to make sure that all policies and actions approved by the board are properly executed.

(b) To recommend to the school board for employment such assistants as are, in his or her judgement, necessary to supervise transportation operation and maintenance and to provide essential records, maps and studies of the service.

(c) To recommend in writing to the school board for employment qualified bus operators, attendants and mechanics as may be necessary for efficient functioning of the service.

(d) To develop safety regulations and promote proper safety practices for all operators.

(e) To prepare and recommend to the school board plans for purchase of or contract for safe school buses to transport students to and from school or school activities.

(f) To organize or approve an inspection, maintenance and repair service for publicly owned or contracted buses designed to ensure that the condition of each bus is maintained to meet or exceed accepted school bus industry and state standards, and which will be adequate to provide for quick and economical repair of any bus, and to make sure that this service functions efficiently.

(g) To propose garages at which buses shall be inspected, when arrangements for this service have not been made to use school board employed mechanics, and to see that inspections are systematically made at least once each month at garages approved by the board.

(h) To make periodic, objective surveys of school bus and garage equipment, routes, safety practices, repair and operating costs, and when unsatisfactory conditions are discovered, to recommend corrective measures to the school board.

(i) To recommend a medical examiner or medical examiners to give physical examinations to bus operators and to ascertain and ensure that all examinations are carried out as required. A medical examiner shall be defined as a medical physician or physician assistant licensed pursuant to Chapter 458, F.S.; an osteopathic physician or physician assistant pursuant to Chapter 459, F.S.; a chiropractic physician licensed pursuant to Chapter 460, F.S.; and an Advanced Registered Nurse Practitioner licensed pursuant to Chapter 464, F.S..

(2) The school district shall exercise additional specific powers and responsibilities, as follows:

(a) Enforcement of law and rules and formulation of poli-

cies.

(b) To make sure that State Board rules are known, understood and observed by all who have responsibility for student transportation.

(c) To assure that all transportation rules and statements of policy are in harmony with rules of the State Board and are fully observed.

(d) To assure that no state funds for transportation are used for transportation of students to schools which cannot qualify for recognition by the Department under the provisions of State Board rules.

(e) To adopt, after considering recommendations of the superintendent, a school board policy prohibiting the use of a cellular telephone by any school bus operator while actively driving the bus.

(f) To adopt after considering recommendations of the superintendent, a school board policy that prohibits unnecessary idling of school buses while they are in the vicinity of students.

(g) To adopt, after considering recommendations of the superintendent statements of policy in harmony with law and with rules of the State Board necessary for maintaining the requirements of adequate transportation. Such policies shall include at least the following responsibilities of the director or supervisor of transportation, the school principal or other designated staff and the bus operator for uniform school bus operating procedures:

1. Responsibilities of the director or supervisor of transportation:

a. To counsel with school bus operators regarding safety and efficiency of service to schools and to make recommendations to them for improvement in service.

b. To confer with the superintendent or the superintendent's designee regarding bus operators and to recommend such personnel for employment.

c. To instruct school bus operators in procedures to be followed in conducting school bus emergency evacuation drills and to confer with each school principal regarding scheduling, conducting and documenting school bus evacuation drills. These procedures shall include a requirement that all operators of school buses transporting students, teachers, or chaperones on field and activity trips instruct all passengers in the locations and proper use of school bus emergency exits prior to each such trip.

d. To counsel with bus operators regarding operator responsibility and authority.

2. Responsibilities of the school principal or other designated school staff:

a. To assume responsibility under the direction of the superintendent for all student disciplinary cases which arise in connection with transportation.

b. To plan the program of the school so that transported students who arrive early or remain late will be under school supervision at all times.

c. To plan and assign places for students to get on and off school buses at the school, and to ensure the safety of the loading/ unloading zone and to provide supervision of students.

d. To direct school bus emergency evacuation drills on each bus serving the school during the first six (6)

weeks of each semester, and to maintain documentation for all students.

e. To provide instruction for all transported students in safe practices on and off the bus during the first six (6) weeks of the first semester of the school year.

f. To request authority in writing for transportation of students on field trips and activity trips, or other special trips, and to plan such trips in accordance with policies approved by the school board.

3. Responsibilities of the school bus operator:

a. To pass all required physical examinations and meet such requirements as may be prescribed by law or rules.

b. To be clean and neat in appearance, and to refrain from wearing shoes which are not securely held on the foot.

c. To refrain from use of tobacco while operating the bus, and to use no profane language in the presence of the students. Operators shall not use or be under the influence of alcohol, illicit drugs, or any substance which may impair the operator's alertness or performance while on duty. Operators shall not carry firearms while on school board property.

d. To prescribe, in cooperation with the principals, the seating arrangements of students on all buses.

e. To report needed changes in school bus transportation to the director or supervisor of transportation including bus loads, bus deficiencies, road hazards, routes and schedules.

f. To study and observe all laws and rules of the State Board and the school board relating to the service of transportation.

g. To attend and participate in conferences and training classes for school bus operators and to be prepared at any time to pass successfully a reasonable examination concerning traffic laws, state and local transportation rules and driving skills.

h. To ascertain and ensure that transported students observe all rules prescribed by law and by the state and local board.

i. To maintain order and discipline, under the direction of the school principal, on the part of every passenger.

j. To permit a student to leave the bus only at their assigned stop, except upon written authorization of the school principal or other district designee.

k. To observe all procedures incorporated in the Florida Department of Education Basic School Bus Operator's Curriculum, as incorporated by reference in paragraph 6A-3.0141(4)(b), F.A.C.

l. To instruct transported students in safe riding practices.

m. To require all passengers to remain seated and to keep aisles and exits clear.

n. To participate in emergency evacuation drills at least once each school semester under the direction of the school principal or the principal's designee.

o. To use the bus, if it is publicly owned, only to transport students to and from school, except upon specific direction of the superintendent or from the principal

upon written authorization by the superintendent.

p. To prepare immediately after every accident involving the bus or a school bus passenger an accident report to be filed with the director or supervisor of transportation.

q. To ascertain and ensure that all persons are off the bus before filling fuel tank.

r. To drive always at a safe speed and never in excess of the legally posted speed limit in business or residential districts or fifty-five (55) miles per hour outside business or residential districts.

s. To cooperate with duly authorized school officials, mechanics and other personnel in the mechanical maintenance and repair of bus in overcoming hazards which threaten the safety or efficiency of service.

t. To inspect the bus at least daily prior to the beginning of the first daily trip or more often as required by the school district and to report any defect affecting safety or economy of operation immediately to authorized service personnel. The inspection shall include all items identified in the procedures related to the mandatory daily inspection in the Basic School Bus Operator Curriculum.

u. To keep the bus clean and neat at all times and not affix any stickers or other unauthorized items to the interior or exterior of buses.

v. To prepare reports, keep all records required, and otherwise assist school officials in mapping bus routes, planning schedules and in obtaining information for a continuous study of all phases of transportation service.

w. To wear a seat belt at all times when the bus is in operation.

x. To use roof-mounted white flashing strobe lights (if equipped) at a minimum, whenever headlights are required to be used due to reduced visibility conditions pursuant to Section 316.217(1)(b), F.S., except that insufficient light due only to the time of day or night shall not require use of the strobe light.

y. To report immediately to the director or supervisor of transportation, school principal or other designated officials:

(I) Misconduct on the part of any student while on the bus or under the operator's immediate supervision,

(II) Complaints requiring attention of school authorities,

(III) Any hazards arising which would offer either an actual or a potential threat to the safety of students in the operator's care,

(IV) Causes for failure to maintain school bus time schedule, and

(V) Overloaded conditions on the bus which exceed the rated capacity of the bus.

z. To perform a complete interior inspection of each bus after each run and trip to ensure no students are left on board.

aa. To maintain as far as practicable by patient and considerate treatment of parents a feeling of security in the safety of students transported.

(3) Transportation personnel.

(a) To employ such assistants as may be recommended by the superintendent and as are necessary in

the judgment of the board to supervise operation and maintenance of school buses and to provide records and maps for a continuous study of transportation routes and needs within the district.

(b) To employ or contract only for services of school bus operators who meet the requirements of Rule 6A-3.0141, F.A.C., and who possess a valid Medical Examiner's Certificate.

(c) To officially maintain, after considering recommendations of the superintendent, an approved, current list of properly licensed physicians or medical facilities staffed by licensed physicians other than members of the school board or superintendent, eligible to examine all school bus operator's and operator applicants, in accordance with Form ESE 479, Florida School Bus Operators Medical Examination Report for Commercial Driver Fitness Determination, and School Bus Driver Physical Standards: Medical Regulatory Criteria for Physical Examinations, as adopted by reference in Rule 6A-3.0151, F.A.C.

(4) Transported students.

(a) To consider, and as nearly as possible to provide for, the transit, safety, and comfort of each student who will be transported to and from school.

(b) To approve, after considering recommendations of the superintendent, policies relating to and governing the conduct of transported students during the time they are riding on the school bus, and during the time spent on the school grounds awaiting the opening of school or in the afternoon hours waiting for the school bus.

(c) To suspend for a period exceeding ten (10) days, upon recommendation of the superintendent, any student who willfully and persistently violates school board policies.

(5) Purchases, lease and use of school buses.

(a) To provide, by purchase or contract, safe, comfortable and adequate transportation facilities and school buses which meet minimum standards of law and State Board rules.

(b) To purchase transportation equipment in accordance with all provisions of law and State Board rules.

(c) To assure that contracts entered into by school boards for operation of school buses are in accordance with law and rules of the State Board.

(d) To adopt policies governing the use of publicly owned and contracted school buses for transportation of students to school and school activities, and to ascertain and ensure that buses and bus bodies are used only after policies have been adopted and upon written instructions signed by the superintendent or designee. Such district policies shall include the provision that any equipment carried in a school bus which could shift on impact or sudden stop shall be securely fastened and shall not block any aisle or exit at any time.

(6) Routes and schedules.

(a) To designate school bus routes, following consideration of data and recommendations presented by the superintendent, to provide for students eligible for transportation when transportation by school bus is economical and practicable.

(b) To propose minimum distances from school cen-

ters within which no bus stops will be scheduled except for students with special transportation needs; to propose minimum distances from transportation routes as residence zones within which students must arrange to meet the bus at regularly scheduled stops; and to plan and arrange routes, schedules, and student capacities in accordance with policies adopted by the school board.

(c) To plan routes, so far as practicable, so that no elementary student shall be on a bus more than fifty (50) minutes or secondary school student more than one (1) hour during the morning or evening, and so that no more than an hour and one-half will elapse between the time the student boards the bus and the time school begins, or the time school closes and the student leaves the bus in the afternoon, and to arrange proposed routes which, insofar as possible, are free from major hazards.

(d) To assure that county and city officials are advised of hazards on bus routes and hazards involving students walking to and from school.

(7) School bus operating principles. To assure that all buses are operated in accordance with municipal, county and state traffic requirements and that every precaution is taken to assure the safety of students.

(8) Inspection and maintenance of school buses.

(a) To provide, after considering recommendations of the superintendent, adequate storage, maintenance and inspection procedures for all buses owned by the school board, and to assure that all contract buses in use in the district are properly inspected and maintained in accordance with law and rules of the State Board.

(b) The inspection shall be conducted in accordance with procedures and include all items listed in the State of Florida School Bus Safety Inspection Manual, 2008 Edition which is hereby incorporated by reference and made a part of this rule. This document may be obtained from the Bureau of Career Development, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399, at a cost not to exceed actual production and distribution cost.

(c) Inspection of buses shall be scheduled and performed at a maximum interval of thirty (30) school days. Any bus that is removed from service or deadlined so as to disrupt the safety inspection schedule shall be inspected prior to being returned to service. All deficiencies discovered during the safety inspection shall be noted on the inspection form. Follow-up repairs of all safety related items shall be made before the bus is returned to service and shall be documented.

(d) School bus inspections shall be conducted by technicians certified as school bus inspectors in accordance with the State of Florida School Bus Safety Inspection Manual, 2008 Edition. The requirement that inspections be performed by a certified school bus inspector may be waived for a period not to exceed six (6) months when an emergency condition exists, upon written notification to the Commissioner by the district superintendent.

(e) No person shall knowingly render inoperative or reduce compliance of any school bus equipment required to meet Federal Motor Vehicle Safety Standards applicable at the time of manufacture.

(9) Transportation records, reports and accounting.

(a) To ascertain and ensure that all prescribed records are kept and reports made which are required by law, rules or the Commissioner.

(b) To assure that all records and reports prescribed by the Commissioner are properly completed and are furnished on the dates due to those designated to receive them.

1. To file with the Deputy Commissioner for Finance and Operations school bus accident reports using the Department's Automated School Bus Accident Reporting System which may be accessed at <http://doeweb-prd.doe.state.fl.us/eds/BusAccident>. Districts shall complete a report on any school bus accident meeting the reporting requirements of the automated system. The Department's Automated School Bus Accident Reporting System (Form ESE 256) as noted above is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the reporting requirements in the Automated School Bus Accident Reporting System may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

2. To file with the Deputy Commissioner for Finance and Operations the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School (Form 422) using the Department's automated system which may be accessed at <http://data.fldoe.org/walking/>. The Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School is hereby incorporated by reference to become effective November 2006. For viewing purposes only, hard copies of the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School may be obtained by contacting the Director of the School Transportation Management Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(c) Keep a current file of all Medical Examiner Certificates and required dexterity tests for school bus operators.

(d) To maintain records of inspection of each school bus in accordance with requirements of subsection (8) of this rule.

(e) To prepare maps of routes and attendance zones and conduct and carry on such studies of transportation as shall enable the superintendent to measure progress and recommend improvements in the transportation service.

(f) To prescribe and maintain, upon recommendation of the superintendent, such additional records, reports, accounts and accounting procedures as may be necessary to provide complete information regarding the transportation service.

(10) Inter-agency relationships. To cooperate with municipal, county, state, and federal agencies to promote the safety of the transportation service through correction of remediable road hazards.

10-1-81, Formerly 6A-3.17, Amended 9-30-87, 6-26-89, 11-15-94, 8-28-95, 4-18-96, Formerly 6-3.017, Amended 6-11-00, Formerly 6-3.017, Amended 4-21-03, 11-26-08.

# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-4

### Certification

#### 6A-4.002 General Provisions.

##### (1) Educator's certificates.

(a) Types of certificates. The types of certificates are the professional certificate, the nonrenewable professional certificate, the temporary certificate, and the athletic coaching certificate. Requirements for obtaining all types of certificates are specified in Rule 6A-4.004, F.A.C.

(b) An applicant for a Florida educator's certificate shall be governed by Florida Statutes and rules for the temporary and professional certificates that are in effect at the time of application and qualification for the initial certificate provided successive certificates are issued for consecutive school fiscal years. An individual who permits a temporary certificate to expire for at least one (1) school fiscal year may secure another full-time certificate in accordance with Florida Statutes and rules for temporary and professional certificates which are in effect at the time the most recent application is received in the Bureau of Educator Certification, Florida Department of Education.

(c) Effective date of certificates. Each certificate shall bear an effective date of July 1 of the school fiscal year for which it is issued.

(d) Definition of coverage. The term "coverage" as used in Florida State Board of Education rules for educator certification purposes shall be defined as the designation on a Florida educator's certificate which indicates the area in which an individual has a content knowledge base. The term "coverage" shall be used synonymously with the terms "subject," "area," or "field."

(e) Definition of endorsement. The term "endorsement" as used in Florida State Board of Education rules for educator certification purposes shall be defined as a rider on a Florida educator's certificate with a designated coverage. An endorsement shown on a certificate with a coverage signifies a pedagogical knowledge base which targets particular levels, stages of development, or circumstances.

(f) Classification of coverages and endorsements shown on certificates. Each coverage or endorsement shown on a certificate shall be identified as an academic class, administrative class, specialty class, or vocational class. The classification is specified in the specialization rule for each coverage or endorsement.

(g) Authority of the Commissioner of Education. Under extenuating circumstances not covered in these rules, the Commissioner is authorized to issue a certificate to an individual upon the request of a Florida district school superintendent.

(h) Responsibility to qualify for and maintain a valid certificate. It shall be the responsibility of each applicant to complete all requirements for the temporary and professional certificates and to file with the Bureau of Educator Certification, Florida Department of Education, evidence of such completion within the specified timelines. For renewal of the professional certificate, it shall be the responsibility of each applicant to obtain

current information regarding renewal requirements and complete such requirements prior to expiration of the professional certificate. Information regarding renewal of the professional certificate may be obtained by contacting the employing Florida district school board or nonpublic school, or by contacting the Bureau of Educator Certification, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(i) Certificates from other states. Certificates from other states shall not be valid for teaching in Florida.

1. Certificates from other states used to document eligibility for a Florida certificate shall:

a. Be the standard educator's certificate issued by that state which is comparable to a Florida Professional Certificate,

b. Be issued in a subject comparable to a Florida certification subject, and

c. Require the same or higher level of training required for certification in that subject in Florida.

2. Official documentation of another state's certificate shall be a photocopy of the front and back of the original certificate.

(j) Certificates from national certification organizations. Certificates issued by national certification organizations approved in Florida Statute or by the State Board of Education shall:

1. Be issued in a subject comparable to a Florida certification subject,

2. Require the same or higher degree level of training required for certification in that subject in Florida, and

3. Official documentation of the national certificate shall be a photocopy of the front and back of the original certificate.

(k) Alteration of certificates. The alteration of any certificate with the intent to mislead or defraud shall be sufficient grounds for revocation of the certificate. It shall be incumbent upon the certificate holder to establish evidence of the absence of intent to mislead or defraud.

##### (2) Degree major.

(a) A degree major used in Florida State Board of Education rules for educator certification purposes is defined as the major field of study as identified by the degree granting institution. A degree major completed at an accredited or approved institution as defined in Rule 6A-4.003, F.A.C., in an area in which Florida offers certification may be utilized to satisfy the specialization requirements specified in Rules 6A-4.008 through 6A-4.035 and 6A-4.054 through 6A-4.062, F.A.C., for the subject to be shown on the certificate.

(b) The Commissioner is authorized to deny acceptance of a major for educator certification purposes if the courses completed for the major are not comparable in quantity and content to the specific course requirements listed in Florida State Board of Education rules for certification in that subject.

(3) College credit. College credit used for educator certification purposes shall be undergraduate or



graduate credit earned at an accredited or approved institution or recommended by the American Council on Education (ACE) as specified in Rule 6A-4.003, F.A.C. All college credit shall be computed by semester hours. One (1) quarter hour of college credit shall equal two-thirds (2/3) of one (1) semester hour. Community and junior college credit used for educator certification purposes shall parallel those of the first and second years of course work at an accredited or approved institution and shall be comparable to courses offered at Florida community and junior colleges which have been approved by the Florida Department of Education.

(4) Waiver of college credit.

(a) Course exemption. Exemption from a college course as verified in writing by the institution of higher education shall be accepted the same as credit earned in that course to meet a specific course requirement for certification.

(b) College teaching experience. Teaching a college credit course, excluding courses for academic remediation, at an accredited or approved institution or an accredited community or junior college as described in Rule 6A-4.003, F.A.C., shall be accepted the same as credit earned in that course to meet a specific course requirement for certification. A written statement from the registrar or other official designated by the president verifying the college teaching experience shall be filed with the Bureau of Educator Certification, Florida Department of Education.

(5) Teaching experience.

(a) Definition of teaching experience. Teaching experience as used in Florida State Board of Education rules for educator certification purposes shall be defined as full-time teaching, administrative, or supervisory service.

1. Teaching experience used for academic, administrative, vocational, and specialty class subjects shall be gained in a public or state supported school as defined in Section 1003.01(2), F.S.; or in a prekindergarten (ages three [3] and four [4]) school which is a public or state supported school or is a contractor for a public school system or in a birth through age two (2) school which is a public or state supported school or is a contractor for a public school system. However, teaching experience in a nonpublic school shall be acceptable provided the applicant held a valid full-time teaching certificate issued by the state department of education in the state where the teaching experience was acquired.

2. Teaching experience used for vocational class subjects shall be gained in an elementary or secondary school as specified in subparagraph (5)(a)1. of this rule, in a public or state supported vocational or technical school, or in an accredited community or junior college as described in Rule 6A-4.003, F.A.C.

(b) Utilization of teaching experience. A year of full-time teaching experience may be accepted in lieu of three (3) semester hours of college credit. A maximum of three (3) years of teaching experience may be used in lieu of nine (9) semester hours of college credit. Not more than one (1) year of teaching experience may be used in lieu of three (3) semester hours of college credit toward

satisfying a single course requirement in professional preparation. Not more than two (2) years of teaching experience may be used in lieu of six (6) semester hours of college credit toward satisfying requirements in a specialization area. When teaching experience is used to satisfy a course requirement in a specialization area or to satisfy a subject special methods course requirement in professional preparation, the teaching experience shall be comparable to the course requirement acquired in the subject or field and at the appropriate instructional level to which it is applied.

(c) Limitations on the use of teaching experience. Teaching experience shall not be accepted in lieu of college credit to satisfy the following certification requirements:

1. Renewal or reinstatement of a professional certificate,
2. Reissuance of a temporary certificate,
3. Satisfaction of a graduate credit requirement,
4. Satisfaction of an entire certification subject.

(6) Noncitizens. A noncitizen may be issued an Official Statement of Status of Eligibility or a certificate as specified below:

(a) An Official Statement of Status of Eligibility shall be issued when the applicant meets requirements specified in Section 1012.56(1), F.S.

(b) The certificate may be issued when the applicant meets requirements specified in Rule 6A-4.004, F.A.C., and an official of the employing Florida public, state supported, or nonpublic school submits documentation of appropriate immigration status. The documentation shall be a photocopy of the completed United States Immigration and Naturalization Form I-9, Employment Eligibility Verification, accepted for employment in compliance with the United States Immigration Reform and Control Act of 1986.

(c) Exchange teachers.

1. An exchange teacher is defined as a teacher from a country other than the United States teaching as the result of a reciprocal arrangement with the United States government or a nationally recognized organization in the United States and another country.

2. A temporary certificate valid for three (3) years may be issued to an exchange teacher. The certificate shall reflect the designation of exchange teacher and shall not reflect a subject. Only one (1) certificate may be issued under this provision when an applicant meets the following requirements:

a. Submits an application form and fee as specified in Rule 6A-4.0012, F.A.C.

b. Submits verification of participation in an exchange program. Verification shall be provided by the employing school district, state supported or nonpublic school, and

c. Submits a request for issuance of the temporary certificate from the employing Florida school superintendent or chief administrative officer of the state supported or nonpublic school which has a Department of Education approved system for documenting the demonstration of required professional education competence.

Rulemaking Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.55, 1012.56 FS. History—Amended 4-10-64, 4-8-68, 4-11-70, 10-18-71, 3-19-72, 12-18-72, 6-17-73, 4-19-74, Repromulgated 12-5-74, Amended 6-22-76, 6-27-77, 12-26-77, 4-27-78, 7-1-79, 7-2-79, 6-26-80, 7-28-81, 1-3-82, 5-11-82, 6-22-83, 3-28-84, 1-31-85, 3-13-85, Joint Administrative Objection Filed - See FAR Vol. 12, No. 11, March 14, 1986, Formerly 6A-4.02, Amended 12-25-86, 10-18-88, 10-10-89, 4-15-91, 11-10-92, 5-30-94, 11-13-96, 10-15-01, 12-27-04, 7-27-06, Joint Administrative Procedures Committee objection resolved by Chapter 86-156, Laws of Florida, Florida Administrative Register Vol. 35, No. 27, July 10, 2009, Amended 1-1-14.

#### **6A-4.0051 Renewal and Reinstatement of a Professional Certificate.**

A professional certificate is renewed or reinstated and certification coverages retained on the certificate in accordance with the following provisions:

(1) Professional certificate. A professional certificate may be renewed for the individual who meets the requirements specified below:

(a) Completes six (6) semester hours of college credit or the equivalent as described below or an amount as specified in subsection (2) of this rule for retention of certificate coverages:

1. College credit. College credit earned at an accredited or approved institution or community or junior college as specified in Rule 6A-4.003, F.A.C., may be used to renew the professional certificate.

2. Inservice training. Inservice points earned through inservice education activities which were part of a District Master Plan for Inservice Education developed and approved by a Florida school district in accordance with Rule 6A-5.071, F.A.C., may be used to renew the professional certificate. Twenty (20) inservice points shall be equal to one (1) semester hour of college credit. The inservice training shall be verified by the Florida district school superintendent or chairperson of the governing board and shall include the number of inservice points earned in each area of certification.

(b) Subject area tests. A passing score on a subject area test in the certification area shown on the certificate may be used to renew the coverage on the professional certificate. A subject area test shall be approved by the Florida State Board of Education and shall be in a certification area shown on the certificate. One (1) test shall be equal to three (3) semester hours of college credit. Official documentation of a passing score on each subject area test used for renewal of the certificate shall be submitted electronically from the test administration agency beginning July 1, 2002, to the Bureau of Educator Certification, Florida Department of Education or shall be the original score report issued by the test administration agency for scores earned prior to July 1, 2002.

(c) National board certification. A certificate issued by the National Board for Professional Teaching Standards is deemed to meet state renewal requirements for the life of the educator's national certificate in the subject shown on the national certificate. Official documentation shall be a photocopy of the national certificate.

(2) Retention of certification coverages. When renewing a professional certificate, certification coverages shall be retained on a professional certificate in accordance with the following:

(a) To retain one (1) certification coverage on a professional certificate, at least three (3) semester hours of college credit or the equivalent shall be completed in the specialization area or an appropriate category in accordance with Section 1012.585(3)(a), F.S. Three (3) additional semester hours or sixty (60) additional inservice points may be completed in any area.

(b) To retain two (2) coverages on a professional certificate, at least three (3) semester hours of college credit or the equivalent shall be completed for each subject in the specialization area or an appropriate category in accordance with Section 1012.585(3)(a), F.S. When requirements have not been satisfied for the retention of a certification coverage on the certificate, the coverage shall be deleted from the certificate when the certificate is renewed.

(c) To retain more than two (2) certification coverages on a professional certificate, the applicant shall be permitted two (2) successive validity periods for renewal of all specialization areas, but must earn no fewer than six (6) semester hours or the equivalent in any one (1) validity period. A coverage shall not continue to be retained on a certificate unless three (3) semester hours or the equivalent is completed in the specialization area or an appropriate category in accordance with Section 1012.585(3)(a), F.S., during one (1) of two (2) successive validity periods. When requirements specified herein have not been satisfied for the retention of a certification coverage or coverages on a certificate, the coverage or coverages shall be deleted from the certificate when the certificate is renewed.

(3) General requirements.

(a) All requirements necessary for the renewal of a certificate shall be completed during the last validity period of the certificate to be renewed and prior to the expiration date of the certificate. College credits, inservice training and subject area tests used to satisfy requirements for issuance of the initial professional certificate shall not be used for renewal of the professional certificate.

(b) Application and appropriate fee as specified in Rule 6A-4.0012, F.A.C., for renewal of a certificate shall be submitted to the Bureau of Educator Certification, Florida Department of Education or the employing Florida school district, during the last year of the validity period of the certificate and prior to the expiration date of the certificate. However, if the renewal application form is not received by the Bureau of Educator Certification or the employing Florida school district, before the expiration of the professional certificate, the application form, application fee, and a thirty (30) dollar late fee shall be submitted prior to July 1 of the year following expiration of the certificate in order to retain the professional certificate.

(c) The validity period of the renewed certificate shall be for a period not to exceed five (5) years from July 1 of the school fiscal year following the date that the application was received in the Bureau of Educator Certification, Florida Department of Education or the employing Florida school district. However, if the renewal applica-

tion is received by the Bureau of Educator Certification or the employing Florida school district after expiration of the professional certificate as specified in paragraph (3)(b) of this rule, the validity period of the renewed certificate shall be for a period not to exceed five (5) years from July 1 following the expiration of the last professional certificate.

(d) A grade of at least “C” or the equivalent shall be earned in each course used for the renewal of a certificate. A grade of pass shall be acceptable under the pass or fail grading system.

(e) A certification coverage which has been deleted from a professional certificate shall be added to the certificate when requirements specified in subsection 6A-4.004(6), F.A.C., have been completed.

(f) A one (1) year extension of the validity period of a professional certificate shall be granted by the Florida Department of Education in the event of serious illness, injury, or other extraordinary extenuating circumstances beyond the control of the applicant. The extension shall be granted only upon written request of the applicant or the superintendent of the local school district or of the chief administrative officer of a state supported or nonpublic school. The written request shall explain the extenuating circumstances. In case of illness or injury, a physician’s written verification shall be submitted.

(4) Special provisions for military service. An individual who holds a valid professional certificate and who is called into or volunteers for actual wartime military service or required peacetime military service may renew the professional certificate and retain all certification coverages shown on the certificate for the period of time equal to the time spent in military service. To qualify for the renewal of the certificate, the individual shall complete the application requirements as specified in Rule 6A-4.0012, F.A.C., and submit a notarized copy of the military separation papers.

(5) Special provisions for teachers of limited English proficient students and teachers of reading.

(a) An educator who holds a professional certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages training and the teaching of reading in excess of six (6) semester hours during one certificate-validity period toward renewal of the professional certificate during the subsequent validity periods.

(b) An educator who holds a temporary certificate may use college credits or inservice points completed in English-for-Speakers-of-Other-Languages training and the teaching of reading toward renewal of the educator’s first professional certificate. Such training must not have been included within the degree program, and the educator’s temporary and professional certificates must be issued for consecutive school years.

(c) These provisions supersede the requirements in paragraph (3)(a) of this rule for the individuals noted in paragraphs (5)(a) and (b) of this rule.

(6) Special provisions for training in the instruction of students with disabilities.

(a) As a component of the credit requirements speci-

fied under paragraph (1)(a) of this rule, an educator whose application for renewal is received on or after July 1, 2014, must have earned at least one (1) college credit, twenty (20) inservice points, or a combination thereof, in the instruction of students with disabilities during the last validity period of the certificate to be renewed and prior to the expiration date of the certificate.

(b) As specified in paragraph (1)(b) of this rule, a passing score earned on a subject area test during the validity period of the professional certificate to be renewed on the Exceptional Student Education (Grades K-12), Hearing Impaired (Grades K-12), Visually Impaired (Grades K-12), or Speech-Language Impaired (Grades K-12) subject area exam may be used to satisfy the requirement for credit in the instruction of students with disabilities when certification coverage for the instruction of students with disabilities is shown on the professional certificate.

(c) An educator may earn acceptable credit for training in any certification subject area related to the instruction of students with disabilities, including, but not limited to, hearing impaired, speech-language impaired, and visually impaired, to satisfy the requirement for credit in the instruction of student with disabilities. Acceptable credit in the instruction of students with disabilities may be applied to retain any specialization area on the professional certificate to be renewed.

(d) In accordance with paragraph (1)(c) of this rule, national board certification in an Exceptional Needs Specialist subject area satisfies the requirement for the instruction of students with disabilities.

(7) Reinstatement of a professional certificate. The Department may reinstate an expired professional certificate if the certificate holder:

(a) Completes the application requirements as specified in Rule 6A-4.0012, F.A.C.,

(b) Satisfies the fingerprint requirement as specified in subparagraph 6A-4.004(1)(a)3., F.A.C.,

(c) Documents completion of six (6) semester hours of college credit during the five (5) years immediately preceding reinstatement of the expired certificate, completion of one hundred twenty (120) inservice points, or a combination thereof, as specified in paragraph (1)(a) of this rule,

(d) During the five (5) years immediately preceding reinstatement of the certificate, achieves a passing score on the subject area examination for each subject to be shown on the reinstated certificate. Only subjects currently issued by the Department may be shown on a reinstated certificate, and

(e) An educator whose application for reinstatement is received on or after July 1, 2014, must have earned at least one (1) college credit or the equivalent inservice points in the instruction of students with disabilities during the five (5) years immediately preceding reinstatement of the expired certificate.

Rulemaking Authority 1001.02, 1012.55, 1012.585 FS. Law Implemented 1012.55, 1012.585 FS. History-New 12-25-86, Amended 4-23-91, 2-12-92, 10-15-01, 12-27-04, 2-25-14.

**6A-4.0141 Specialization Requirements for Certification in the Area of Preschool Education (Birth through Age Four)—Academic Class.**

Competencies for the specialization requirements are listed in the publication “Competencies for Specialization Requirements for Educators’ Certification in Florida, First Edition” which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained from the Bureau of Teacher Certification, Florida Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

(1) Plan One. A bachelor’s or higher degree with an undergraduate or graduate major in preschool education (birth through age four [4]), or

(2) Plan Two. A bachelor’s or higher degree with forty-five (45) semester hours in preschool education (birth through age four [4]) to include the areas specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8) with emphasis on infants, toddlers, and preschoolers;

(b) Three (3) semester hours in the historical, philosophical, and sociological perspectives in early childhood education with emphasis on infants, toddlers, and preschoolers;

(c) Eighteen (18) semester hours in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers which include integrated field experiences;

(d) Six (6) semester hours in issues and practices to promote family and community involvement in programs serving infants, toddlers, and preschoolers which include integrated field experiences;

(e) Three (3) semester hours in health, nutrition, and safety in programs serving infants, toddlers, and preschoolers;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers which include integrated field experiences;

(g) Six (6) semester hours in special needs of all infants, toddlers, and preschoolers which include integrated field experiences; and

(h) Three semester hours in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers which include integrated field experiences; or

(3) Plan Three. A bachelor’s or higher degree with an undergraduate or graduate degree major in early childhood education or primary education (kindergarten through grade three [3]); or a bachelor’s or higher degree with the specialization and professional preparation requirements completed for the prekindergarten (age three [3] through grade three [3]) certification coverage; and completion of twelve (12) semester hours to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers;

(b) Credit in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers;

(c) Credit in the special needs of all infants, toddlers, and preschoolers; and

(d) Credit in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers; or

(4) Plan Four. A bachelor’s or higher degree with specialization and professional preparation requirements completed for the early childhood education or the primary education (kindergarten through grade three [3]) certification coverage; and completion of twenty-four (24) semester hours to include integrated field experiences as specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8) with emphasis on infants, toddlers, and preschoolers;

(b) Credit in the historical, philosophical, and sociological perspectives in early childhood education with emphasis on infants, toddlers, and preschoolers;

(c) Nine (9) semester hours in developmentally appropriate integrated curriculum and practices in programs serving infants, toddlers, and preschoolers;

(d) Credit in issues and practices to promote family and community involvement in programs serving infants, toddlers, and preschoolers;

(e) Credit in health, nutrition, and safety in programs serving infants, toddlers, and preschoolers;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation of infants, toddlers, and preschoolers;

(g) Six (6) semester hours in special needs of all infants, toddlers, and preschoolers; and

(h) Credit in child guidance and management of the physical settings for programs serving infants, toddlers, and preschoolers.

Specific Authority 229.053(1), 231.15(1), 231.17(1) F.S. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 5-30-94.

**6A-4.0142 Specialization Requirements for Certification in the Area of Prekindergarten/Primary Education (Age Three Through Grade Three)—Academic Class.**

Competencies for the specialization requirements are listed in the publication “Competencies for Specialization Requirements for Educators’ Certification in Florida, First Edition” which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained from the Bureau of Educator Certification, Florida Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

(1) Plan One. A bachelor’s or higher degree with an undergraduate or graduate major in prekindergarten/primary education (age three [3] through grade three [3]), or

(2) Plan Two. A bachelor’s or higher degree with forty-five (45) semester hours in prekindergarten/primary education (age three [3] through grade three [3]) to include the areas specified below:

(a) Three (3) semester hours in child growth and development from conception to age eight (8);

(b) Three (3) semester hours in the historical, philosophical, and sociological perspectives in early childhood education;



(c) Eighteen (18) semester hours in developmentally appropriate integrated curriculum and practices in programs serving age three (3) through grade three (3) which include integrated field experiences;

(d) Six (6) semester hours in issues and practices to promote family and community involvement which include integrated field experiences;

(e) Three (3) semester hours in health, nutrition, and safety;

(f) Three (3) semester hours in diagnosis, assessment, and evaluation which include integrated field experiences;

(g) Six (6) semester hours in special needs of all children and their families which include integrated field experiences; and

(h) Three (3) semester hours in child guidance and classroom management which include integrated field experiences.

(3) Plan Three. A bachelor's or higher degree with an undergraduate or graduate degree major in the area of preschool education (birth through age four [4]); or a bachelor's or higher degree with the specialization and professional preparation requirements completed for the area of preschool education (birth through age four [4]); and completion of twelve (12) semester hours in prekindergarten/primary education to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving children age five (5) through grade three (3);

(b) Credit in diagnosis, assessment, and evaluation for children age five (5) through grade three (3);

(c) Credit in special needs of children (age five [5] through grade [3]) and their families; and

(d) Credit in child guidance and classroom management for children (age five [5] through grade three [3]).

(4) Plan Four. A bachelor's or higher degree with an undergraduate or graduate degree major in the area of primary education (grades kindergarten through grade three [3]) and twelve (12) semester hours in prekindergarten/primary education to include integrated field experiences as specified below:

(a) Credit in developmentally appropriate integrated curriculum and practices in programs serving children ages three (3) and four (4);

(b) Credit in issues and practices to promote family and community involvement;

(c) Credit in diagnosis, assessment, and evaluation for children ages three (3) and four (4); and

(d) Six (6) semester hours in special needs of all children and their families.

(5) Plan Five. A bachelor's or higher degree with an undergraduate or graduate degree major in elementary education (grades one [1] through six [6]); or a bachelor's or higher degree with the specialization and professional preparation requirements completed for elementary education (grades one [1] through six [6]) or primary education (grades kindergarten through grade three [3]); and fifteen (15) semester hours in prekindergarten/primary education to include integrated field experiences as

specified below:

(a) Six (6) semester hours in developmentally appropriate integrated curriculum and practices in programs serving children ages three (3) through five (5);

(b) Credit in health, nutrition, and safety for children;

(c) Credit in diagnosis, assessment, and evaluation of young children;

(d) Credit in the education of young children with special needs and their families; and

(e) Credit in child guidance and management of classrooms with young children.

Specific Authority 229.053(1), 231.15(1), 231.17(1) Florida Statutes. Law Implemented 229.053, 231.145, 231.15, 231.17(3) Florida Statutes. History - New 5-30-94, 7-17-00.

#### **6A-4.0172 Specialization Requirements for Certification in the Area of Hearing Impaired (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in hearing impaired, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include credit in the areas specified below:

(a) Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

(b) Educational management of exceptional students to include classroom organization, behavior management, and consultation skills;

(c) Audiology, anatomy and physiology of human speech and auditory mechanisms, including assessment, amplification, and assistive listening devices;

(d) Introduction to education of students who are hearing impaired to include the nature and needs of hearing impaired and multi-handicapped students, trends and issues, family support and intervention, and community resources;

(e) Language development to include the application of English linguistics, psycholinguistics, and sociolinguistics to the education of hearing impaired students, including ages birth to five (5) years;

(f) Auditory development and learning to include methods of auditory learning, assessment, and techniques for evaluating the acoustic environment;

(g) Manual communication to include manually coded English and American Sign Language;

(h) Instructional strategies for teaching students who are hearing impaired to include credit in the following:

1. Teaching language to include instructional procedures to effect language learning to students who are hearing impaired including ages birth to age five (5) years;

2. Speech development to include production and transmission of speech and instructional and assessment strategies to facilitate the development of speech skills for students who are hearing impaired including ages birth to age five (5) years;

3. Teaching reading to students who are hearing impaired to include theories, curricular adaptations, and



assessment;

4. Teaching mathematics, science, and social studies to students who are hearing impaired to include procedures for curricular adaptations; and

5. Teaching social and personal skills for students who are hearing impaired to include employability skills, career awareness, and transition planning for adult living.

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92, Amended 7-17-00.

#### **6A-4.0176 Specialization Requirements for Certification in the Area of Speech-Language Impaired (Grades K-12)—Academic Class.**

(1) Completion of the following education courses to satisfy the courses required in paragraph (2)(a) of Rule 6A-4.006, FAC.

(a) Three (3) semester hours in survey of exceptional student education, and

(b) Three (3) semester hours in school organization or general curriculum which includes the elementary and secondary instructional levels.

(2) Completion of specialization requirements by one of the following plans:

(a) Plan One. A master's or higher degree with a graduate major in speech-language pathology,

(b) Plan Two. A valid license in speech-language pathology issued pursuant to Chapter 468, Part I, Florida Statutes. Appropriate documentation to the Department shall be a letter of verification of licensure from the issuing agency,

(c) Plan Three. A valid certificate of clinical competence issued by the American Speech-Language Hearing Association. Appropriate documentation to the Department shall be a letter of verification from the issuing agency, or

(d) Plan Four. A master's or higher degree with a minimum of sixty (60) semester hours of college credit in speech-language pathology, and three hundred (300) clock hours of supervised clinical practice to include one hundred fifty (150) clock hours at the graduate level. The supervised clinical practice shall include each of the following areas: evaluation of speech and language problems; management of language disorders in children; management of disorders of articulation, fluency, and voice; and assessment and management of auditory disorders. Appropriate documentation to the Department shall be a letter of verification from a designated official of the training institution. Thirty (30) semester hours of the minimum required college credit in speech-language pathology shall be graduate credit and shall include the following:

1. Three (3) semester hours of graduate credit in each of the following:

a. Evaluation of speech, language, and hearing disorders;

b. Management of articulation disorders;

c. Management of fluency disorders;

d. Management of voice disorders; and

e. Management of auditory disorders; and

2. Six (6) semester hours of graduate credit in man-

agement of language disorders of children.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 10-3-91.

#### **6A-4.01761 Specialization Requirements for Certification in the Area of Speech-Language Impaired/Associate—Academic Class.**

A bachelor's degree with an undergraduate major in speech-language pathology or speech-language impaired. This coverage is limited to a period of not more than three (3) years for the provision of services in school districts that qualify for the sparsity supplement as described in Section 236.081(6), Florida Statutes. This coverage shall be identified on the temporary certificate when requested by the superintendent of an eligible school district. This rule shall be reviewed by the Florida Board of Education by October 1, 2003.

Specific Authority 231.15(1), 231.17, 231.167 FS. Law Implemented 231.02, 231.15, 231.17 FS. History - New 9-17-01.

#### **6A-4.0178 Specialization Requirements for Certification in the Area of Visually Impaired (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in visually impaired, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include credit in the areas specified below:

(a) Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

(b) Educational management of exceptional students to include classroom organization, behavior management, and consultation skills;

(c) Methods and materials for teaching reading to include:

1. Sequential developmental skills and concepts of reading,

2. Recognition and diagnosis of reading problems, and

3. Prescription and utilization of appropriate methods and materials to increase reading performance; and

(d) Specialized courses for the education of students who are visually impaired to include each of the following:

1. Introduction to visual impairments including psychological, social, and emotional implications; history of educational services; and current delivery models;

2. Introduction to orientation and mobility to include theories, concepts, and the impact of mobility on the individual, the family, and the community;

3. The teaching of reading and writing of English Braille;

4. Functions of the eye and educational implications to include interpretation of medical eye reports, structure of the eye, disease and impairments, low vision training, and the use and care of optical aids; and

(e) Instructional strategies for teaching students who

are visually impaired to include each of the following:

1. Teaching and assessing personal and social skills to include personal hygiene, self care, interpersonal relationships, career awareness, and social interaction with peers;
2. Teaching and assessing communication skills and reading including the use of specialized equipment; and
3. Teaching and assessing mathematics, science, and technology to include Nemeth code, abacus, specialized science materials, adapted technology, and computer access devices.

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92, Amended 7-17-00.

#### **6A-4.01791 Specialization Requirements for the Gifted Endorsement—Academic Class Beginning July 1, 1992.**

(1) A bachelor's or higher degree with certification in an academic class coverage, and

(2) Fifteen (15) semester hours in gifted education to include three (3) semester hours in each area specified below:

(a) Nature and needs of gifted students to include student characteristics; cognitive, social, and emotional needs; and history and current research;

(b) Curriculum and instructional strategies for teaching gifted students to include modification of curriculum content, instructional process, student products, and learning environment;

(c) Guidance and counseling of gifted students to include motivation, self-image, interpersonal skills, and career options for gifted students;

(d) Educating special populations of gifted students such as minorities, underachievers, handicapped, economically disadvantaged, and highly gifted to include student characteristics and programmatic adaptations; and

(e) Theory and development of creativity to include elements of creativity such as fluency, flexibility, originality, and elaboration.

(3) This rule shall take effect July 1, 1992.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92.

#### **6A-4.01792 Specialization Requirements for the Prekindergarten Disabilities Endorsement - Academic Class.**

(1) A bachelor's or higher degree with certification in any exceptional student education area, preschool education, primary education, prekindergarten/primary education, elementary education (K-6), or early childhood education, and

(2) Twelve (12) semester hours in prekindergarten disabilities education to include the areas specified below:

(a) Six (6) semester hours in the development and implementation of individualized educational programs for the prekindergarten child with disabilities to include formal and informal evaluation techniques; developmentally appropriate curriculum, methods, and intervention strategies; teaming approaches to facilitate inclusion in appropriate learning environments; and multidisciplinary

approaches and techniques for serving the child and the family;

(b) Three (3) semester hours in child development to include theories of the atypical child, the stages and sequences of development, and the impact of disabilities and biomedical risk factors on learning; and

(c) Three (3) semester hours in family collaboration and support to include family systems theory and interaction; community resources; service coordination; and transition.

Specific Authority 1001.02(2)(n), 1012.55(1), 1012.56(13) FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History-New 10-3-91, Amended 5-7-02, 2-25-09.

#### **6A-4.01793 Specialization Requirements for Endorsement in Severe or Profound Disabilities—Academic Class.**

(1) A bachelor's or higher degree with certification in any area of special education; and

(2) Twelve (12) semester hours in the education of students with profound disabilities to include the areas specified below:

(a) Coursework in atypical child development and assessment of students with profound disabilities to include use of student assessment for individual educational planning and program planning;

(b) Coursework in interdisciplinary teaming to include available resources; the recognition of the role of parents, teachers, and other professionals; functional community-based curriculum; employability skills; and transition planning; and

(c) Completion of one of the areas as follows:

1. Six (6) semester hours to include:

a. Coursework in nature of autism and intervention strategies for educating students who are autistic to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements; and

b. Three (3) semester hours of supervised field-based experience with students who are autistic; or

2. Six (6) semester hours to include:

a. Coursework in nature of profound mental disabilities and intervention strategies for educating students with profound mental disabilities to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements, and

b. Three (3) semester hours of supervised field-based experience with students with profound mental disabilities; or

3. Six (6) semester hours to include:

a. Coursework in nature of deaf-blindness and intervention strategies for educating students who are deaf-blind to include student characteristics, appropriate learning goals, teaching approaches, and environmental arrangements, and

b. Three (3) semester hours of supervised field-based experience with students who are deaf-blind.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 10-3-91, Amended 4-17-02.

**6A-4.01794 Specialization Requirements for the Orientation and Mobility Endorsement—Academic Class.**

(1) Plan One. A bachelor's or higher degree with certification in visually impaired and nine (9) semester hours to include three (3) semester hours in each of the following:

(a) Beginning orientation and mobility skills to include experience and observation of behaviors under conditions simulating visual impairments;

(b) Advanced orientation and mobility skills focusing on increasingly complex environments and applications to multihandicapped preschool, school-age, and adult populations; and

(c) Applied skills in orientation and mobility to include observation and assessment, and planning and delivery of orientation and mobility services to students with visual impairments; or

(2) Plan Two. A bachelor's or higher degree with certification in an academic class subject and twenty-four (24) semester hours to include the areas specified below:

(a) Three (3) semester hours in each of the following:

1. Foundations of exceptional student education to include historical perspectives, student characteristics, and trends and issues;

2. Introduction to visual impairments including psychological, social, and emotional implications; history of educational services; and current delivery models;

3. Functions of the eye and educational implications to include interpretation of medical eye reports, structure of the eye, disease and impairments, low vision training, and the use and care of optical aids;

4. Introduction to orientation and mobility to include theories, concepts, and the impact of mobility on the individual, the family, and the community;

5. Beginning orientation and mobility skills to include experience and observation of behaviors under conditions simulating visual impairments;

6. Advanced orientation and mobility skills focusing on increasingly complex environments and applications to multihandicapped preschool, school-age, and adult populations; and

(b) Six (6) semester hours in applied skills in orientation and mobility to include observation and assessment, and planning and delivery of orientation and mobility services to students with visual impairments.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History -New 10-3-91.

**6A-4.01795 Specialization Requirements for Certification in Exceptional Student Education (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with a major in exceptional student education, special education, mental disabilities, specific learning disabilities, emotional disabilities, physically impaired or varying exceptionalities; or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in exceptional student education to include the areas specified below:

(a) Foundations of special education to include educational practices and development and characteristics of children with disabilities;

(b) Assessment and evaluation to include interpretation, analysis, and application of assessment results and alternate assessment strategies;

(c) Evaluation of student progress in acquiring, generalizing, and maintaining skills related to participation in educational settings;

(d) Instructional practices in special education to include selection and implementation of instructional practices and strategies and identification of accommodations and modifications;

(e) Relevant general education and special skills curricula selection;

(f) Assessing, designing, and implementing positive behavioral supports;

(g) Language development and communication skills to include normal sequence of expressive and receptive language development and identification of communication deficits and appropriate interventions;

(h) Skills to teach interpersonal interactions to include criteria for selecting instructional procedures for teaching personal care, interpersonal skills, self-advocacy skills, and adaptive life skills;

(i) Transition process to include development of desired postschool outcomes; and

(j) Effective methods of communication, consultation, and collaboration with students, families, administrators, and other education professionals.

(3) This rule is to become effective July 1, 2002, and supercedes the provisions of Rules 6A-4.0171, 6A-4.0173, 6A-4.0174, 6A-4.0175, and 6A-4.0177, FAC., as of that date.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15(1), 231.17(6) FS. History - New 7-1-02.

**6A-4.01796 Specialization Requirements for Endorsement in Autism—Academic Class.**

(1) A bachelor's or higher degree with certification in any exceptional student education area; and

(2) Twelve semester hours to include:

(a) Nature of autism (to include student characteristics, appropriate learning goals, teaching approaches, environmental arrangements, etc.);

(b) Use of assistive and instructional technology and natural, alternative and augmentative communication systems for students with autism;

(c) Behavior management and positive behavior supports for students with autism;

(d) Assessment and diagnosis of autism, and

(e) Field-based experience with students with autism

(3) This rule is to become effective July 1, 2002.

Specific Authority 229.053(1), 231.15(1), 231.17(6) FS. Law Implemented 229.053, 231.145, 231.15(1), 231.17(6) FS. History - New 7-1-02.

**6A-4.0181 Specialization Requirements for Certification in Guidance and Counseling (Grades PK-12)—Specialty Class Beginning July 1, 1990.**

(1) Plan One. A master's or higher degree with a graduate major in guidance and counseling or counselor education which includes three (3) semester hours in a supervised counseling practicum in an elementary or secondary school, or

(2) Plan Two. A master's or higher degree with thirty (30) semester hours of graduate credit in guidance and counseling to include the areas specified below:

(a) Three (3) semester hours in principles, philosophy, organization and administration of guidance,

(b) Three (3) semester hours in student appraisal including administration and interpretation of standardized tests,

(c) Three (3) semester hours in education and career development information practices and systems,

(d) Three (3) semester hours in learning, personality theory, and human development,

(e) Three (3) semester hours in counseling theories and individual counseling techniques,

(f) Three (3) semester hours in group counseling and guidance techniques,

(g) Three (3) semester hours in consultation skills and techniques for conferring with groups such as agencies, teachers, and parents,

(h) Three (3) semester hours in legal, ethical, and current issues affecting school counselors,

(i) Three (3) semester hours in specialized counseling techniques for use with elementary or secondary level special populations such as exceptional students, drop-outs, and minorities, and

(j) Three (3) semester hours in a supervised counseling practicum in an elementary or secondary school.

(3) This rule shall take effect July 1, 1990.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 231.02, 231.145, 231.15, 231.17 FS. History - New 7-1-90.

**6A-4.0191 Specialization Requirements for Certification in Health (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in health, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in health to include credit in each of the areas specified below:

(a) Mental and emotional health,

(b) Substance abuse which includes alcohol, tobacco, and other drugs,

(c) Advanced first aid and cardiopulmonary resuscitation training as specified below:

1. Credit in advanced first aid and cardiopulmonary resuscitation, or

2. A valid instructor's first aid certificate and a valid instructor's cardiopulmonary resuscitation certificate issued by the American Heart Association or the American Red Cross,

(d) Personal, community, or environmental health,

(e) Human anatomy and human physiology,

(f) Nutrition,

(g) Human sexuality, and

(h) Disease control for diseases such as Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV), and Sexually Transmissible Diseases (STDs).

Specific Authority 229.053(1), 231.15(1), 231.17(3) FS. Law Implemented 231.02, 231.145, 231.15, 231.17, 233.067 FS. History - New 7-1-90, Amended 7-17-00.

**6A-4.02431 Specialization Requirements for the American Sign Language Endorsement—Academic Class.**

(1) A bachelor's or higher degree with certification in an academic class coverage, and

(2) Eighteen (18) semester hours in American Sign Language to include three (3) semester hours in each area specified below:

(a) First and second language acquisition,

(b) Linguistics of American Sign Language,

(c) Aspects of the deaf culture and community,

(d) Methods of teaching American Sign Language,

(e) American Sign Language IV, and

(f) American Sign Language literature, or

(3) A bachelor's or higher degree with certification in an academic class coverage, and a valid Professional Level Certificate issued by the American Sign Language Teachers Association (ASLTA).

Specific Authority 1007.2615, 1012.55, 1012.56, FS. Law Implemented 1007.2615, 1012.55, 1012.56, FS. History - New 3-1-05.

**6A-4.0283 Specialization Requirements for Certification in Physical Education (Grades K-12)—Academic Class.**

(1) Plan One. A bachelor's or higher degree with a teacher education major in physical education, or

(2) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in physical education to include the areas specified below:

(a) Twelve (12) semester hours in instructional design and content of physical education,

(b) Motor development,

(c) Kinesiology,

(d) Administration of physical education,

(e) Applied exercise physiology,

(f) Adaptive physical education or physical education for exceptional students,

(g) Care and prevention of human injuries, and

(h) Theory and practice in coaching.

(3) This rule is to become effective July 1, 2003, and supercedes the provisions of Rule 6A-4.028, FAC., as of that date.

Specific Authority 1001.02, 1012.55, 1012.56, FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56, FS. History - New 7-1-03

**6A-4.0292 Specialization Requirements for the Reading Endorsement—Academic Class.**

(1) A bachelor's or higher degree with certification



in an academic, degreed vocational, administrative, or specialty class coverage, and

(2) Fifteen (15) semester hours in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties to include the areas specified below:

(a) Six (6) semester hours in understanding reading as a process of student engagement in both fluent decoding of words and construction of meaning;

(b) Three (3) semester hours in the administration and interpretation of instructional assessments to include screening, diagnosis, and progress monitoring with purposes of prevention, identification, and remediation of reading difficulties;

(c) Three (3) semester hours in understanding how to prescribe, differentiate instruction, and utilize appropriate strategies and materials based upon scientifically based reading research in order to address the prevention, identification, and remediation of reading difficulties in order to increase reading performance; and

(d) Three (3) semester hours in a supervised practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization of appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and remediation of reading difficulties.

Specific Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History - New 7-30-02.

#### **6A-4.0311 Specialization Requirements for Certification in School Psychologist (Grades PK-12)—Specialty Class Beginning July 1, 1992.**

(1) Plan One. A specialist's or higher degree with a major in school psychology at the specialist's or higher degree level which includes six (6) semester hours of graduate credit in a year-long supervised school psychology internship in an elementary or secondary school, or

(2) Plan Two. A master's or higher degree and completion of a graduate program in school psychology which includes sixty (60) semester hours of graduate credit in school psychology to include the areas specified below:

(a) Credit in each of the following six core competency areas:

1. Psychological foundations;
2. Educational foundations;
3. Psychoeducational assessment;
4. Interventions and specialized techniques;
5. Statistics, measurement, and research design; and
6. Professional school psychology;

(b) Three (3) semester hours in a supervised practicum in school psychology in addition to the internship in paragraph (2)(c) of this rule; and

(c) Six (6) semester hours in a year-long supervised school psychology internship in an elementary or secondary school. No more than twelve (12) semester hours of credit in the internship shall be accepted; or

(3) Plan Three. A master's or higher degree with

completion of a graduate program in school psychology and three (3) years of full-time experience as a school psychologist in an elementary or secondary school. The experience shall be acceptable provided the applicant held a valid full-time school psychologist certificate issued by the state where the experience was gained, or

(4) Plan Four. A master's or higher degree with sixty (60) semester hours of graduate credit in school psychology to include the areas specified below:

(a) Twelve (12) semester hours in psychological foundations. Courses in this area include: abnormal psychology, biological bases of behavior, cultural diversity, child psychology, adolescent psychology, psychology of exceptional students, human learning, personality, and social bases of behavior;

(b) Six (6) semester hours in educational foundations. Courses in this area include: education of exceptional learners, instructional and remedial techniques, and organization and operation of schools;

(c) Nine (9) semester hours in psychoeducational assessment to include three (3) semester hours in individual intellectual assessment. Courses in this area include individual intellectual assessment, psychoeducational assessment, and personality or behavior assessment;

(d) Nine (9) semester hours in interventions and specialized techniques. Courses in this area include consultation, counseling, applied behavioral analysis, behavior management, and prescriptive intervention;

(e) Six (6) semester hours in statistics, measurement, and research design. Courses in this area include: statistics, testing and measurement, research design, and program evaluation;

(f) Three (3) semester hours in professional school psychology. Courses in this area include: history and foundations of school psychology, legal and ethical issues, professional issues affecting school psychologists, and rules and functions of the school psychologist;

(g) Three (3) semester hours in a supervised practicum in school psychology in addition to the internship in paragraph (4)(h) of this rule. Three (3) years of full-time experience as a school psychologist in an elementary or secondary school will satisfy the supervised practicum requirement. The experience shall be acceptable provided the applicant held a valid full-time school psychologist certificate issued by the state where the experience was gained; and

(h) Six (6) semester hours in a year-long supervised school psychology internship in an elementary or secondary school. The internship shall total at least twelve hundred (1200) clock hours with at least six hundred (600) clock hours in an elementary or secondary school. The internship shall be completed at an institution which offers a master's or higher degree major in school psychology. No more than twelve (12) semester hours of credit in the internship shall be accepted. Three (3) years of full-time experience as a school psychologist as described in paragraph (4)(g) of this rule will satisfy the internship requirement, or

(5) Plan Five. A valid certificate as a Nationally Certified School Psychologist issued by the National School



Psychology Certification System.

(6) This rule shall take effect July 1, 1992.

Specific Authority 229.053(1), 231.15(1), 231.17(1) FS. Law Implemented 229.053, 231.145, 231.15, 231.17 FS. History - New 7-1-92.

**6A-4.035 Specialization Requirements for Certification in School Social Worker (Grades PK-12) - Specialty Class.**

A bachelor's or higher degree with an undergraduate or graduate major in social work. The program shall be accredited by the National Council on Social Work Education or the institution shall be accredited in accordance with the provisions of Rule 6A-4.003, F.A.C.

Rulemaking Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History-New 4-20-64, Amended 7-7-68, Revised 8-17-74, Repromulgated 12-5-74, Joint Administrative Procedures Committee Objection Filed - See FAW Vol. 11, No. 51, December 20, 1985, Formerly 6A-4.35, Amended 12-4-89, 11-13-96, Joint Administrative Procedures Committee objection resolved by Chapter 86-156, Laws of Florida, Florida Administrative Weekly Vol. 35, No. 27, July 10, 2009.

# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-6

### Special Programs for Exceptional Students

#### **6A-6.021 State of Florida High School Diplomas.**

The Commissioner shall award a State of Florida high school diploma pursuant to Section 1003.435, F.S., to a candidate who meets all of the requirements prescribed herein and has attained on each of the five (5) General Education Development Tests a minimum score of 410 or above on a scale of "0" to "800", with an average score of 450.

(1) The Department shall designate official testing centers in the state which are authorized to act as agents of the state in administering the GED Tests. The Department shall provide tests and test materials annually to the official testing centers, provide test scoring and reporting services, maintain a perpetual record of individual test results, and issue state of Florida high school diplomas to successful candidates.

(2) Each official testing center shall establish a schedule for testing which adequately meets the needs of the candidates within its service area.

(3) Each district shall establish a fee of not less than the total national and state required fees nor more than seventy (70) dollars for each candidate taking the entire test battery consisting of the five (5) GED Tests. This fee shall be paid at the time the application is filed. A fee of not less than the total national and state required fees nor more than the ten (10) dollars shall be paid by each candidate for each retake of the Social Studies, Science, Reading, and Mathematics tests. A fee of not less than the total national and state required fees nor more than twelve (12) dollars shall be paid by the candidate for each retake of the Writing Skills Test. However, the school board, community college, or agency administering the testing center may authorize the waiver, on a uniform or, on an individual basis, of all or any portion of the fees prescribed in this subsection.

(4) In order to defray state costs for the testing program, each school board, community college, or agency administering the GED Tests shall remit to the Department the following fees:

(a) Entire battery of five (5) tests: seventeen (17) dollars.

(b) Retake of the Social Studies, Science, Reading, and Mathematics tests: four (4) dollars.

(c) Retake of the Writing Skills test: five (5) dollars.

(d) Duplication of diploma: four (4) dollars.

(e) Duplication of transcript: four (4) dollars.

(f) Conversion of scores from applicants who have taken the GED in the military: seven (7) dollars.

(5) The Chief Examiner of each official testing center shall inform all candidates of testing opportunity and retesting limitations.

(6) Each candidate taking the GED Tests will be issued an official transcript of scores. A candidate who fails to attain the required minimum scores on the initial GED Tests may test a maximum of three (3) times in each sub-

ject area during the GED contract year.

(a) Each request directed to the Department for duplication of diploma shall be charged at a rate of six (6) dollars.

(b) Each request directed to the Department for duplication of transcript shall be charged at a rate of six (6) dollars.

Specific Authority 1001.02(1), 1003.435(1), (5) F.S. Law Implemented 1003.435 F.S. History-Amended 2-20-64, 4-11-70, 6-7-70, 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 6-7-77, 1-1-79, 9-1-79, 12-7-82, 7-10-85, Formerly 6A-6.21, Amended 12-21-87, 3-1-98, 5-19-08, 9-22-08.

#### **6A-6.0212 Performance-Based Exit Option Model and State of Florida High School Performance-Based Diploma.**

The Department of Education shall award a State of Florida High School Performance-Based Diploma pursuant to Section 1003.435, F.S., to a candidate who meets all of the requirements of the Performance-Based Exit Option Model, as prescribed herein.

(1) General and Administrative Components.

(a) The Department shall designate the authority of awarding the State of Florida High School Performance-Based Diploma to each approved school district participating in the Performance-Based Exit Option Model.

(b) This program is also known as the "GED Exit Option."

(c) School districts must apply and be approved by the Department in order to implement the Performance-Based Exit Option Model at all school sites. Beginning with the 2010/2011 school year, and bi-annually thereafter, each approved school district must submit a renewal application to continue to implement the Performance-Based Exit Option Model. School districts who are seeking initial approval to implement the Performance-Based Exit Option Model may apply during any given school year. The Performance-Based Exit Option Model Application, Form BFCO 001, effective July 2010, is incorporated by reference and made a part of this rule and may be obtained by contacting the Director of Dropout Prevention, Bureau of Family and Community Outreach, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400, or online at <http://www.fldoe.org/family/drop-out/default.asp>.

(d) School districts may amend approved applications anytime during the school year by completing and submitting an amendment to the Department.

(e) The district shall identify a Performance-Based Exit Option Model administrator who is responsible for ensuring that each approved school site is provided with the appropriate number of GED Testing Authorization Forms. The district Performance-Based Exit Option Model administrator must contact the Department of Education for additional Testing Authorization forms throughout the

school year.

(2) Eligibility and Admission Components.

(a) The Performance-Based Exit Option Model is not to be a preferred or accelerated means of completing high school. Thus, this model is not a vehicle for the early exit of students and may only be exercised for students who are off track to graduate with their kindergarten cohort due to being overage for grade, behind in credits or having a low Grade Point Average (GPA). Students participating in the Performance-Based Exit Option Model may not graduate prior to their kindergarten cohort. Participation in this model is voluntary and requires parental notification and consent. Entry and exit policies must conform to state compulsory attendance requirements, as well as district daily attendance policies.

(b) Any eligible student currently enrolled in a PK-12 program, including special programs such as exceptional student education, dropout prevention, teenage parent, Department of Juvenile Justice, and English for Speakers of Other Languages (ESOL) may participate in the Performance-Based Exit Option Model. To be eligible to participate in the Performance-Based Exit Option Model, a student must, at a minimum, be:

1. At least sixteen (16) years old and currently enrolled in a PK-12 program;
2. Enrolled in and attending high school courses that meet high school graduation requirements as specified in Section 1003.428 or 1003.43, F.S., whichever is applicable;
3. In jeopardy of not graduating with their kindergarten cohort because they are overage for grade, behind in credits, or have a low GPA;
4. Assessed at a seventh grade reading level or higher at the time of selection (ninth grade or higher at the time of GED testing), as documented by the Test of Adult Basic Education (TABE) reading component or other assessment to determine grade level proficiency.

(c) The student eligibility criteria articulated in this rule in paragraph (2)(b) are the minimum requirements to which each school district implementing the Performance-Based Exit Option Model must adhere.

(d) After the student's initial eligibility has been determined, a comprehensive review of student records by designated school personnel or a child study team, including, but not limited to grades, credits, attendance, behavior and education plans, must be completed to decide if the Performance-Based Exit Option Model is the most appropriate educational strategy.

(e) If the student is a minor, parents or guardian(s) must be informed and give written consent to a student's participation in the Performance-Based Exit Option Model. The student's record must include written notification of the student's eligibility, parents' or guardians' right to an administrative review of the proposed placement, and parental or guardian consent, in writing, for student's participation prior to utilizing this model. The student's parent or guardian must be informed of the results of the record review and provided clarification that the student's transcript will indicate an alternative graduation route.

(f) Counseling is required before program entry and during participation in the program. Counseling and advisement services must be provided to both students and parents or guardians regarding the Performance-Based Exit Option Model and other graduation options prior to participation so that they can make an informed decision regarding placement.

(3) Curriculum and Instruction.

(a) The curricula and instructional content for the Performance-Based Exit Option Model must be at the high school level and must be rigorous and relevant to the student's postsecondary goals. Each student must be enrolled in and attending K-12 high school courses that meet the high school graduation requirements specified in Section 1003.428 or 1003.43, F.S., whichever is applicable.

(b) The content of the Performance-Based Exit Option Model must be academic and may include career education instruction or activities. The school district must provide a full range of instruction that aligns with the State Standards and the core content measured by GED Tests (high school mathematics, writing, social studies, reading, and science). Career Education instruction and activities should be directed at the knowledge, skills, and abilities required for securing and maintaining employment.

(c) Instruction for the Performance-Based Exit Option Model must be of sufficient intensity and duration to ensure that participating students have a fair opportunity to raise their skills to the level necessary to earn a State of Florida High School Performance-Based Diploma in a reasonable period of time. Appropriate curriculum materials must be provided in adequate quantities and must be available when students need them. Instructional strategies that focus on individual student progress are strongly encouraged.

(d) Students are required to adhere to district attendance and code of conduct policies.

(e) Districts must administer the official GED Practice Tests administered under student testing conditions, prior to testing students for the GED. Districts must provide academic interventions to students who do not earn acceptable scores on the official GED Practice Tests.

(4) Program Completion Requirements.

(a) For students to successfully complete the Performance-Based Exit Option Model, the student must:

1. Continue enrollment and attendance in high school courses that meet high school graduation requirements as specified in Section 1003.428 or 1003.43, F.S., whichever is applicable.
2. Pass the required sections of the FCAT, or receive a concordant score in accordance with Section 1008.22, F.S.;
3. Pass the GED Tests; and
4. Complete any additional requirements established by the school district.

(b) Students earning the State of Florida High School Performance-Based Diploma are not required to obtain the minimum credits and GPA that are required for a standard high school diploma.

(c) Students must successfully participate in the Performance-Based Exit Option Model for at least one full

semester.

(d) Students who are participating in the Performance-Based Exit Option Model during their 13th year of school and their kindergarten cohort has already graduated are not required to continue classes until the end of the currently enrolled semester if they have:

1. Successfully passed the required sections of the FCAT or received a concordant score in accordance with Section 1008.22, F.S.;

2. Passed the GED Tests; and

3. Completed any additional requirements established by the school district.

(5) Official Recognition.

(a) Performance-Based Exit Option Model students must receive official recognition. Students enrolled in the Performance-Based Exit Option Model are eligible to participate in all standard high school activities, including extracurricular activities, as well as graduation and other recognition ceremonies.

(b) A student completing the Performance-Based Exit Option Model who passes the GED Tests and the required sections of the FCAT, or receives a concordant score in accordance with Section 1008.22, F.S., must be awarded a State of Florida High School Performance-Based Diploma.

(c) A student completing the Performance-Based Exit Option Model who does not meet the graduation requirements established in Section 1003.428 or 1003.43, F.S., as applicable, does not qualify to receive a standard high school diploma.

(d) If a student passes the GED Tests but does not pass the FCAT, the student must only be awarded the State of Florida High School Diploma (GED).

(e) Rule 6A-1.0995, F.A.C., provides the allowable format for State of Florida High School Performance-Based Diploma.

Rulemaking Authority 1001.02, 1003.435, 1003.53 FS. Law Implemented 1003.435, 1003.53 FS. History-New 7-19-10.

#### **6A-6.024 School Entry Health Examination.**

This rule implements the school entry health examination required by Section 1003.22, F.S.

(1) Any health professional who is licensed in Florida or in the state where the student resided at the time of the health examination and who is authorized to perform a general health examination under such licensure shall be acceptable to certify that health examinations have been completed.

(2) Certification that a health examination has been completed may be documented on the State of Florida, Department of Health, DH Form 3040, "School Entry Health," which is incorporated by reference in this rule, or a signed statement by authorized professionals that indicates the results of the components included in the health examination. DH Form 3040, effective 6/02, may be obtained from the local county health departments.

(3) Transfer of all student health records shall be in accordance with paragraphs 6A-1.0955(7)(a), (b), F.A.C.

Specific Authority 1001.02(1), 1003.22(1) FS. Law Implemented 1003.22 FS.

History-New 7-1-81, Amended 12-6-84, Formerly 6A-6.24, Amended 11-26-08.

#### **6A-6.0251 Use of Epinephrine Auto-Injectors.**

(1) Definitions.

(a) Self-Administration. Self-administration shall mean that the student is able to utilize the epinephrine auto-injector in the manner directed by the licensed healthcare provider without additional assistance or direction.

(b) Anaphylaxis. Anaphylaxis is a medical term for the life-threatening allergic reactions that may occur when allergic individuals are exposed to specific allergens. Anaphylaxis is a collection of symptoms affecting multiple systems in the body.

(c) Epinephrine Auto-injector. Epinephrine auto-injector is a prescription medication (epinephrine) in a specific dose-for-weight device that is packaged for self-delivery in the event of a life-threatening allergic reaction.

(d) Emergency Action Plan. Emergency action plan is a child-specific action plan that is developed for an anticipated health emergency in the school setting. The Emergency Action Plan (EAP) is a component of the Individual Health Care Plan (IHCP) developed in accordance with Section 1006.062, F.S., and Rule 64F-6.004, F.A.C.

(2) A written authorization is required from the physician and parent/guardians for a student to carry an epinephrine auto-injector and self-administer epinephrine by auto-injector in accordance with Section 1002.20, F.S.

(3) In accordance with subsection 64F-6.004(4), F.A.C., the school nurse shall develop an annual IHCP that includes an EAP, in cooperation with the student, parent/guardians, healthcare provider, and school personnel for the student with life-threatening allergies.

(4) The IHCP shall include provisions for child-specific training in accordance with Section 1006.062(4), F.S., to protect the safety of all students from the misuse or abuse of auto-injectors. The EAP component shall specify that the emergency number (911) will be called immediately for an anaphylaxis event and describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.

Specific Authority 1002.20(3)(i) FS. Law Implemented 1002.20(3)(i) FS. History-New 3-24-08.

#### **6A-6.0252 Use of Prescribed Pancreatic Enzyme Supplements.**

(1) Definitions.

(a) Emergency Care Plan (ECP). An ECP is a child-specific action plan to facilitate quick and appropriate responses for an individual emergency in the school setting. The ECP may be a component of the Individualized Healthcare Plan (IHP) that is developed consistent with Sections 1002.20(3)(k) and 1006.062(4), F.S. The ECP shall specify when the emergency number (911) will be called and describe a plan of action when the student is unable to self-administer medication or self-manage treatment as prescribed.

(b) Individualized Health Care Plan (IHP). An IHP

is a written plan of care developed at the local level to outline the provision of student healthcare services intended to achieve specific student outcomes. The IHP is part of the nursing process that is detailed in the National Association of School Nurses Position Statement: Individualized Healthcare Plans, The Role of the School Nurse (2013) as incorporated by reference in Rule 6A-6.0253, F.A.C., Diabetes Management. The IHP is developed by a registered nurse (RN) in collaboration with the family, student, student's health care providers, and school personnel for the management of pancreatic insufficiency or cystic fibrosis while in school, participating in school-sponsored activities, and in transit to or from school or school-sponsored activities. The IHP is child-specific and includes a written format for nursing assessment (health status, risks, concerns, and strengths), nursing diagnoses, interventions, delegation, training, expected outcomes, and goals to meet the health care needs of a student with pancreatic insufficiency or cystic fibrosis and to protect the safety of all students from the misuse or abuse of medication.

(c) Pancreatic Insufficiency. Pancreatic insufficiency is a disorder of the digestive system. Pancreatic insufficiency may include the diagnosis of cystic fibrosis, a chronic disease that affects the lungs and digestive system.

(d) Self-Administration. Self-Administration means that a student diagnosed with pancreatic insufficiency or cystic fibrosis is able to self-manage prescribed pancreatic enzyme therapy in the manner directed by the licensed healthcare provider without additional assistance or direction.

(2) With written authorization from the healthcare provider and parent, a student with pancreatic insufficiency or cystic fibrosis shall be allowed to carry and self-administer prescribed pancreatic enzymes.

Rulemaking Authority 1002.20(3)(k) F.S. Law Implemented 1002.20(3)(k), 1006.062(4) F.S. History-New 5-5-13, Amended 7-22-14.

#### **6A-6.0253 Diabetes Management.**

##### **(1) Definitions.**

(a) Diabetes. Diabetes is a disease that impairs the body's ability to produce or properly use insulin, a hormone that is needed to convert food into energy.

(b) Diabetes Medical Management Plan (DMMP). A DMMP is a medical authorization for diabetes treatment that includes medication orders from student's healthcare provider for routine and emergency care.

(c) Emergency Care Plan (ECP). An ECP is a child-specific action plan to facilitate quick and appropriate responses for an individual emergency in the school setting. The ECP may be a component of the Individualized Healthcare Plan (IHP) that is developed consistent with Sections 1002.20(3)(j) and 1006.062(4), F.S. The ECP shall specify when the emergency number (911) will be called and describe a plan of action when the student is unable to self-administer medication or self-manage treatment as prescribed.

(d) Individualized HealthCare Plan (IHP). An IHP is a written plan of care developed at the local level

to outline the provision of student healthcare services intended to achieve specific student outcomes. The IHP is part of the nursing process that is detailed in the National Association of School Nurses Position Statement: Individualized Healthcare Plans, The Role of the School Nurse (2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03693>), which is hereby incorporated by reference and available online at <http://www.nasn.org/portals/0/positions/2013psihp.pdf>. A hard copy may be obtained by contacting Student Support Services, Turlington Building, 325 West Gaines Street, Suite 644, Tallahassee, Florida 32399. The IHP is developed from the DMMP by a registered nurse (RN) in collaboration with the family, student, student's healthcare providers, and school personnel for the management of diabetes while in school, participating in school-sponsored activities, and in transit to or from school or school-sponsored activities. The IHP is child-specific and includes a written format for nursing assessment (health status, risks, concerns, and strengths), nursing diagnoses, interventions, delegation, training, expected outcomes, and goals to meet the healthcare needs of a student with diabetes and to protect the safety of all students from the misuse or abuse of medication, supplies, and equipment.

(e) Self-Administration. Self-Administration means that a student with diabetes is able to self-manage medication, supplies, and equipment in the manner directed by a licensed healthcare provider without additional assistance or direction.

(2) School districts are to have appropriate personnel, whether licensed nurses or trained school personnel, assigned to each school a student with diabetes would otherwise attend if he or she did not have diabetes. School districts are to ensure that such personnel are available to provide the necessary diabetes care throughout the school day and during school-sponsored activities.

(3) With written consent from the healthcare provider and parent, a student with diabetes shall be allowed to carry and self-administer medication, supplies, and equipment based on the student's diabetes medical management plan.

(4) The Department of Education, in collaboration with the Department of Health, shall develop technical assistance regarding the care of students with diabetes, and shall identify and provide sources to school districts for training school personnel.

Rulemaking Authority 1001.02, 1002.20(3)(j) F.S. Law Implemented 1002.20(3)(j) F.S. History-New 11-25-12, Amended 3-25-14.

#### **6A-6.03011 Exceptional Student Education Eligibility for Students with Intellectual Disabilities.**

(1) Definition. Students with intellectual disabilities. An intellectual disability is defined as significantly below average general intellectual and adaptive functioning manifested during the developmental period, with significant delays in academic skills. Developmental period refers to birth to eighteen (18) years of age.

(2) General education interventions and activities. Prior to referral for evaluation the requirements in sub-



section 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the minimum evaluation for determining eligibility shall include all of the following:

(a) A standardized individual test of intellectual functioning individually administered by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, F.S.;

(b) A standardized assessment of adaptive behavior to include parental or guardian input;

(c) An individually administered standardized test of academic or pre-academic achievement. A standardized developmental scale shall be used when a student's level of functioning cannot be measured by an academic or pre-academic test; and

(d) A social-developmental history which has been compiled directly from the parent, guardian, or primary caregiver.

(4) Criteria for eligibility. A student with an intellectual disability is eligible for exceptional student education if all of the following criteria are met:

(a) The measured level of intellectual functioning is more than two (2) standard deviations below the mean on an individually measured, standardized test of intellectual functioning;

(b) The level of adaptive functioning is more than two (2) standard deviations below the mean on the adaptive behavior composite or on two (2) out of three (3) domains on a standardized test of adaptive behavior. The adaptive behavior measure shall include parental or guardian input;

(c) The level of academic or pre-academic performance on a standardized test is consistent with the performance expected of a student of comparable intellectual functioning;

(d) The social/developmental history identifies the developmental, familial, medical/health, and environmental factors impacting student functioning and documents the student's functional skills outside of the school environment; and

(e) The student needs special education as defined in Rules 6A-6.0331 and 6A-6.03411, F.A.C.

(5) Documentation of determination of eligibility. Eligibility is determined by a group of qualified professionals and the parent or guardian in accordance with paragraph 6A-6.0331(6)(a), F.A.C. The documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection 6A-6.0331(6), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic and intellectual functioning;

(c) The educationally relevant medical findings, if any;

(d) The determination of the group concerning the effects on the student's achievement level of a visual, hear-

ing, motor, or emotional/behavioral disability; cultural factors; environmental or economic factors, an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(e) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusion.

Specific Authority 1001.02(1), (2)(n), 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1001.02(2)(n), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c) FS. History-New 7-1-77, Amended 7-2-79, Formerly 6A-6.3011, Amended 5-17-88, 1-4-09.

#### **6A-6.03012 Exceptional Student Education Eligibility for Students with Speech Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Speech Services.**

(1) Speech impairments are disorders of speech sounds, fluency, or voice that interfere with communication, adversely affect performance and/or functioning in the educational environment, and result in the need for exceptional student education.

(a) Speech sound disorder. A speech sound disorder is a phonological or articulation disorder that is evidenced by the atypical production of speech sounds characterized by substitutions, distortions, additions, or omissions that interfere with intelligibility. A speech sound disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

1. Phonological disorder. A phonological disorder is an impairment in the system of phonemes and phoneme patterns within the context of spoken language.

2. Articulation disorder. An articulation disorder is characterized by difficulty in the articulation of speech sounds that may be due to a motoric or structural problem.

(b) Fluency disorder. A fluency disorder is characterized by deviations in continuity, smoothness, rhythm, or effort in spoken communication. It may be accompanied by excessive tension and secondary behaviors, such as struggle and avoidance. A fluency disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(c) Voice disorder. A voice disorder is characterized by the atypical production or absence of vocal quality, pitch, loudness, resonance, or duration of phonation that is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(2) General education procedures and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., related to general education procedures for kindergarten through grade twelve students, or subsection 6A-6.0331(2), F.A.C., related to procedures prior to initial evaluation for prekindergarten children, must be met.

(3) Procedures for the evaluation of a speech sound

disorder. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and description of speech characteristics. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) Documented and dated observation(s) of the student's speech characteristics must be conducted by a speech-language pathologist to examine the student's speech characteristics during connected speech or conversation. Observation(s) conducted prior to obtaining consent for evaluation may be used to meet this criterion;

(c) An examination of the oral mechanism structure and function must be conducted; and

(d) One or more standardized, norm-referenced instruments designed to measure speech sound production must be administered to determine the type and severity of the speech sound errors and whether the errors are articulation (phonetic) or phonological (phonemic) in nature.

(4) Procedures for the evaluation of a fluency disorder. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, to address the areas identified in paragraph (4)(d) of this rule. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) A minimum of two (2) documented and dated observations of the student's speech and secondary behaviors must be conducted by a speech-language pathologist in more than one setting, including the typical learning environment. For prekindergarten children, the observations may occur in an environment or situation appropriate for a child of that chronological age. Observations conducted prior to obtaining consent for evaluation may be used to meet this criterion, if the activities address the areas identified in paragraph (4)(d) of this rule;

(c) An examination of the oral mechanism structure and function must be conducted;

(d) An assessment of all of the following areas:

1. Motor aspects of the speech behaviors;
2. Student's attitude regarding the speech behaviors;
3. Social impact of the speech behaviors; and
4. Educational impact of the speech behaviors; and

(e) A speech sample of a minimum of 300-500 words must be collected and analyzed to determine frequency, duration, and type of dysfluent speech behaviors. If the speech-language pathologist is unable to obtain a speech sample of a minimum of 300-500 words, a smaller sample may be collected and analyzed. The evaluation report must document the rationale for collection and analysis of a smaller sample, the results obtained, and the basis for recommendations.

(5) Procedures for the evaluation of a voice disorder. In addition to the procedures identified in subsection 6A-

6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and description of voice characteristics. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) Documented and dated observation(s) of the student's voice characteristics must be conducted by a speech-language pathologist in one or more setting(s), which must include the typical learning environment. For prekindergarten children, the observation(s) may occur in an environment or situation appropriate for a child of that chronological age. Observation(s) conducted prior to obtaining consent for evaluation may be used to meet this criterion;

(c) An examination of the oral mechanism structure and function must be conducted; and

(d) A report of a medical examination of laryngeal structure and function conducted by a physician licensed in Florida in accordance with Chapter 458 or 459, F.S., unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the state of the vocal mechanism and any medical implications for therapeutic intervention.

(6) Criteria for eligibility. A student is eligible as a student with a speech impairment in need of exceptional student education if the student meets the following criteria for one or more of the following disorders as determined by the procedures prescribed in this rule and subsection 6A-6.0331(6), F.A.C.

(a) Speech sound disorder. A student with a speech sound disorder is eligible for exceptional student education if there is evidence, based on evaluation results, of a significant phonological or articulation disorder that is characterized by the atypical production of speech sound(s). The atypical production of speech sound(s) may be characterized by substitutions, distortions, additions, or omissions. Evaluation results must reveal all of the following:

1. The speech sound disorder must have a significant impact on the student's intelligibility, although the student may be intelligible to familiar listeners or within known contexts;

2. The student's phonetic or phonological inventory must be significantly below that expected for his or her chronological age or developmental level based on normative data;

3. The speech sound disorder must have an adverse effect on the student's ability to perform and/or function in the student's typical learning environment, thereby demonstrating the need for exceptional student education; and

4. The speech sound disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(b) Fluency disorder. A student with a fluency disorder

is eligible for exceptional student education if there is evidence, based on evaluation results, of significant and persistent interruptions in the rhythm or rate of speech. Evaluation results must reveal all of the following:

1. The student must exhibit significant and persistent dysfluent speech behaviors. The dysfluency may include repetition of phrases, whole words, syllables and phonemes, prolongations, blocks, and circumlocutions. Additionally, secondary behaviors, such as struggle and avoidance, may be present;

2. The fluency disorder must have an adverse effect on the student's ability to perform and/or function in the educational environment, thereby demonstrating the need for exceptional student education; and

3. The dysfluency is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(c) Voice disorder. A student with a voice disorder is eligible for exceptional student education if there is evidence, based on evaluation results, of significant and persistent atypical voice characteristics. Evaluation results must reveal all of the following:

1. The student must exhibit significant and persistent atypical production of quality, pitch, loudness, resonance, or duration of phonation. The atypical voice characteristics may include inappropriate range, inflection, loudness, excessive nasality, breathiness, hoarseness, or harshness;

2. The voice disorder does not refer to vocal disorders that are found to be the direct result or symptom of a medical condition unless the disorder adversely affects the student's ability to perform and/or function in the educational environment and is amenable to improvement with therapeutic intervention;

3. The voice disorder must have an adverse effect on the student's ability to perform and/or function in the educational environment, thereby demonstrating the need for exceptional student education; and

4. The atypical voice characteristics are not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(7) Speech services.

(a) A group of qualified professionals determining eligibility under requirements of this rule and subsection 6A-6.0331(6), F.A.C., must include a speech-language pathologist.

(b) A speech-language pathologist shall be involved in the development of the individual educational plan for students eligible for speech services, whether as special education or as a related service for an otherwise eligible student with a disability.

(c) Speech therapy services shall be provided by a certified speech-language pathologist pursuant to Rule 6A-4.0176, F.A.C., or a licensed speech-language pathologist pursuant to Section 468.1185, F.S., or a speech-language associate pursuant to Rule 6A-4.01761, F.A.C.

(d) Speech-language associate.

1. Speech therapy services provided by a speech-language associate as specified in Rule 6A-4.01761, F.A.C., must be under the direction of a certified or licensed speech-language pathologist with a master's degree or

higher in speech-language pathology. Services can be provided for a period of three (3) years as described in Section 1012.44, F.S., in districts that qualify for the sparsity supplement as described in Section 1011.62(7), F.S.

2. Districts shall submit a plan to the Department of Education for approval before implementation of Rule 6A-4.01761, F.A.C. The components of the plan must include a description of:

- a. The model, specifying the type and amount of direction including direct observation, support, training, and instruction;

- b. The rationale for using this model;

- c. The manner in which the associate will be required to demonstrate competency;

- d. The process for monitoring the quality of services;

- e. The process for measuring student progress; and

- f. The manner in which the speech-language associate will meet the requirements of the annual district professional development plan for instructional personnel.

Rulemaking Authority 1003.01, 1003.57, 1003.571 FS. Law Implemented 1003.01, 1003.57, 1003.571, 1012.44 FS. History-New 7-1-77, Amended 7-13-83, Formerly 6A-6.3012, Amended 8-1-88, 9-17-01, 7-1-10.

#### **6A-6.030121 Exceptional Student Education Eligibility for Students with Language Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Language Services.**

(1) Language impairments are disorders of language that interfere with communication, adversely affect performance and/or functioning in the student's typical learning environment, and result in the need for exceptional student education.

(a) A language impairment is defined as a disorder in one or more of the basic learning processes involved in understanding or in using spoken or written language. These include:

1. Phonology. Phonology is defined as the sound systems of a language and the linguistic conventions of a language that guide the sound selection and sound combinations used to convey meaning;

2. Morphology. Morphology is defined as the system that governs the internal structure of words and the construction of word forms;

3. Syntax. Syntax is defined as the system governing the order and combination of words to form sentences, and the relationships among the elements within a sentence;

4. Semantics. Semantics is defined as the system that governs the meanings of words and sentences; and

5. Pragmatics. Pragmatics is defined as the system that combines language components in functional and socially appropriate communication.

(b) The language impairment may manifest in significant difficulties affecting listening comprehension, oral expression, social interaction, reading, writing, or spelling. A language impairment is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

- (2) Procedures prior to initial evaluation for pre-

kindergarten children. Prior to initial evaluation, the requirements of subsection 6A-6.0331(2), F.A.C., must be met.

(3) Evaluation procedures for children in prekindergarten. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the minimum evaluation for a prekindergarten child shall include all of the following:

(a) Information gathered from the child's parent(s) or guardian(s) and others as appropriate, such as teacher(s), service providers, and caregivers regarding the concerns and description of language skills. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) One or more documented and dated observation(s) of the child's language skills must be conducted by the speech-language pathologist in one or more setting(s), which must include the child's typical learning environment or an environment or situation appropriate for a child of that chronological age; and

(c) Administration of one or more standardized norm-referenced instruments designed to measure language skills. The instrument must be administered and interpreted by a speech-language pathologist to determine the nature and severity of the language deficits. If the speech-language pathologist is unable to administer a norm-referenced instrument, a scientific, research-based alternative instrument may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument, the results obtained, and the basis for recommendations.

(4) Criteria for eligibility for prekindergarten children. A prekindergarten child is eligible as a student with a language impairment in need of exceptional student education if all of the following criteria are met:

(a) There is evidence, based on evaluation results, of significant deficits in language. The impairment may manifest in significant difficulties affecting one or more of the following areas:

1. Listening comprehension;
2. Oral expression;
3. Social interaction; or
4. Emergent literacy skills (e.g., vocabulary development, phonological awareness, narrative concepts).

(b) One or more documented and dated behavioral observation(s) reveals significant language deficits that interfere with performance and/or functioning in the typical learning environment;

(c) Results of standardized norm-referenced instrument(s) reveal a significant language deficit in one or more of the areas listed in paragraph (1)(a) of this rule, as evidenced by standard score(s) significantly below the mean. If the evaluator is unable to administer a norm-referenced instrument and an alternative scientific, research-based instrument is administered, the instrument must reveal a significant language deficit in one or more areas listed in paragraph (1)(a) of this rule. Significance of the deficit(s) must be determined and based on specifications in the manual of the instrument(s) utilized for evaluation purposes;

(d) Information gathered from the child's parent(s) or

guardian(s), teacher(s), service providers, or caregivers must support the results of the standardized instruments and observations conducted;

(e) The language impairment must have an adverse effect on the child's ability to perform and/or function in the typical learning environment, thereby demonstrating the need for exceptional student education; and

(f) The language impairment is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(5) General education intervention procedures and activities for students in kindergarten through grade twelve. Prior to obtaining consent for initial evaluation, the requirements of subsection 6A-6.0331(1), F.A.C., related to general education procedures for kindergarten through grade twelve students, must be met.

(6) Evaluation procedures for students in kindergarten through grade twelve.

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs exceptional student education in the following circumstances:

1. Prior to obtaining consent for evaluation, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

2. Prior to obtaining consent for evaluation, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of exceptional student education; or

3. Whenever a referral is made to conduct an evaluation to determine the student's need for exceptional student education and the existence of a disability.

(b) To ensure that the decreased performance and/or functioning of a student suspected of having a language impairment is not due to lack of appropriate instruction, the minimum evaluation procedures must include all of the following:

1. Review of data that demonstrate the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general or exceptional education settings;

2. Data-based documentation, which was provided to the student's parent(s) or guardian(s), of repeated measures of performance and/or functioning at reasonable intervals, communicated in an understandable format, reflecting the student's response to intervention during instruction;

3. Information gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and a description of language skills. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

4. Documented and dated observation(s) of the student's language skills must be conducted by the speech-language pathologist in one or more setting(s); and

5. Administration of one or more standardized norm-referenced instrument(s) designed to measure language



skills. The instrument(s) must be administered and interpreted by a speech-language pathologist to determine the nature and severity of the language deficits. If the speech-language pathologist is unable to administer a norm-referenced instrument, a scientific, research-based alternative instrument may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument, the results obtained, and the basis for recommendations.

(c) With the exception of the observation required by subparagraph (7)(c)4. of this rule, general education activities and interventions conducted prior to initial evaluation in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraph (6)(b) of this rule.

(7) Criteria for eligibility for students in kindergarten through grade twelve. A student meets the eligibility criteria as a student with a language impairment in need of exceptional student education if all of the following criteria are met:

(a) Due to deficits in the student's language skills, the student does not perform and/or function adequately for the student's chronological age or to meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's chronological age or grade:

1. Oral expression;
2. Listening comprehension;
3. Social interaction;
4. Written expression;
5. Phonological processing; or
6. Reading comprehension.

(b) Due to deficits in the student's language skills, the student does not make sufficient progress to meet chronological age or State-approved grade-level standards pursuant to Rule 6A-1.09401, F.A.C., in one or more of the areas identified in paragraph (7)(a) of this rule when using a process based on the student's response to scientific, research-based intervention;

(c) Evidence of a language impairment is documented based on a comprehensive language evaluation, including all evaluation components as specified in paragraph (6)(b) of this rule. There must be documentation of all of the following:

1. Documented and dated observations show evidence of significant language deficits that interfere with the student's performance and/or functioning in the educational environment;

2. Results of standardized norm-referenced instrument(s) indicate a significant language deficit in one or more of the areas listed in paragraph (1)(a) of this rule, as evidenced by standard score(s) significantly below the mean. If the evaluator is unable to administer a norm-referenced instrument and an alternative scientific, research-based instrument is administered, the instrument must reveal a significant language deficit in one or more areas listed in paragraph (1)(a) of this rule. Significance of the deficit(s) must be determined and based on specifications in the manual of the instrument(s) utilized

for evaluation purposes;

3. Information gathered from the student's parent(s) or guardian(s), teacher(s), and when appropriate, the student, must support the results of the standardized instruments and observations conducted; and

4. At least one additional observation conducted by the speech-language pathologist when the language impairment is due to a deficit in pragmatic language and cannot be verified by the use of standardized instrument(s). The language impairment may be established through the results of subparagraphs (6)(b)3. and 4. of this rule and the additional observation(s) conducted subsequent to obtaining consent for evaluation as part of a comprehensive language evaluation. The evaluation report must document the evaluation procedures used, including the group's rationale for overriding results from standardized instruments, the results obtained, and the basis for recommendations. The information gathered from the student's parent(s) or guardian(s), teacher(s), and when appropriate, the student, must support the results of the observation(s) conducted; and

(d) The group determines that its findings under paragraph (7)(a) of this rule are not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(8) Documentation of determination of eligibility. For a student suspected of having a language impairment, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates all of the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection 6A-6.0331(6), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;

(c) The educationally relevant medical findings, if any;

(d) Whether the student has a language impairment as evidenced by response to intervention data confirming the following:

1. Performance and/or functioning discrepancies. The student displays significant discrepancies, for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, including to the extent practicable the peer subgroup, classroom, school, district, and state level comparison groups; and

2. Rate of progress. When provided with effective implementation of appropriate research-based instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the gap with typical peers or expectations for the chronological age or grade level in which the student is currently enrolled; and

3. Educational need. The student continues to demonstrate the need for interventions that significantly differ in intensity and duration from what can be provided solely through educational resources and services cur-



rently in place, thereby demonstrating a need for exceptional student education due to the adverse effect of the language impairment on the student's ability to perform and/or function in the educational environment.

(e) The determination of the student's parent(s) or guardian(s) and group of qualified professionals concerning the effects of chronological age, culture, gender, ethnicity, patterns of irregular attendance, or limited English proficiency on the student's performance and/or functioning; and

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the intervention support provided to the individuals implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration of intervention implementation (e.g., number of weeks, minutes per week, sessions per week), and the student-centered data collected; and

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance and/or functioning data that would be collected and the educational resources and services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(9) Language services.

(a) A group of qualified professionals determining eligibility under requirements of this rule and subsection 6A-6.0331(6), F.A.C., must include a speech-language pathologist.

(b) A speech-language pathologist shall be involved in the development of the individual educational plan for students eligible for language services, whether as special education or as a related service for an otherwise eligible student with a disability.

(c) Language therapy services shall be provided by a certified speech-language pathologist pursuant to Rule 6A-4.0176, F.A.C., or a licensed speech-language pathologist pursuant to Section 468.1185, F.S., or a speech-language associate pursuant to Rule 6A-4.01761, F.A.C.

(d) Speech-language associate.

1. Language therapy services provided by a speech-language associate as specified in Rule 6A-4.01761, F.A.C., must be under the direction of a certified or licensed speech-language pathologist with a master's degree or higher in speech-language pathology. Services under this subsection can be provided for a period of three (3) years as described in Section 1012.44, F.S., in districts that qualify for the sparsity supplement as described in Section 1011.62(7), F.S.

2. Districts shall submit a plan to the Department of Education for approval before implementation of Rule 6A-4.01761, F.A.C. The components of the plan must include a description of:

a. The model, specifying the type and amount of direction including, but not limited to, direct observation,

support, training, and instruction;

b. The rationale for using this model;

c. The manner in which the associate will be required to demonstrate competency;

d. The process for monitoring the quality of services;

e. The process for measuring student progress; and

f. The manner in which the speech-language associate will meet the requirements of the annual district professional development plan for instructional personnel.

Rulemaking Authority 1003.01(3), 1003.57, 1003.571, 1012.44 FS. Law Implemented 1003.01(3), 1003.57, 1003.571, 1012.44 FS. History-New 7-1-10.

#### **6A-6.03013 Exceptional Student Educational Eligibility for Students Who Are Deaf or Hard-of-Hearing.**

(1) Definition. Students who are deaf or hard-of-hearing. A student who is deaf or hard-of-hearing has a hearing loss aided or unaided, that impacts the processing of linguistic information and which adversely affects performance in the educational environment. The degree of loss may range from mild to profound.

(2) General education interventions and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the provisions of subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) Audiological evaluation;

(b) Evaluation of developmental skills or academic achievement, including information on the student's academic strengths and weaknesses;

(c) Evaluation of social development;

(d) Evaluation of receptive and expressive communication; and,

(e) A comprehensive nonverbal assessment of intellectual functioning or developmental scales, if more appropriate, for children under age seven.

(4) Criteria for eligibility. A student who is deaf or hard-of-hearing is eligible for exceptional student education if the following criteria are met:

(a) An audiological evaluation documents a permanent or fluctuating hearing threshold level that interferes with progress in any one (1) of the following areas: developmental skills or academic performance, social-emotional development, or linguistic and communicative skills as evidenced by:

1. 25 decibel (db) +  $\pm$  5 dB or greater based on pure tone average or average of 500, 1000, and 2000 Hz unaided in the better ear; or

2. A high frequency hearing threshold level of 25 dB  $\pm$  5 dB or greater based on pure tone average of 1000, 2000, and 3000 Hz unaided in the better ear; or

3. A unilateral hearing threshold level of 50 dB  $\pm$  5 dB or greater based on pure tone average of 500, 1000, and 2000 Hz unaided; or

4. Auditory Evoked Potential responses evidencing permanent hearing loss at multiple frequencies equivalent to or in excess of the decibel hearing loss threshold criteria for pure tone audiometric testing specified in subpara-

graphs (4)(a) 1., 2., and 3., above; and,

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

(5) Reevaluation shall occur at least every three (3) years and shall include at a minimum an audiological evaluation, and, if appropriate, any other formal evaluations addressed in the initial evaluation in accordance with subsection (3) of this rule.

(6) A screening for Usher's Syndrome shall be administered to each student who is deaf or hard-of-hearing at least once during grades 6-12.

Rulemaking Authority 1003.01, 1003.57, 1003.571 FS. Law Implemented 1003.01, 1003.57, 1003.571 FS. History-New 7-1-77, Amended 9-11-84, Formerly 6A-6.3013, Amended 7-1-94, 7-1-07, 12-15-09.

#### **6A-6.03014 Exceptional Student Education Eligibility for Students Who Are Visually Impaired.**

(1) Definition. Students who are visually impaired include the following:

(a) A student who is blind, has no vision, or has little potential for using vision.

(b) A student who has low vision.

(c) The term visual impairment does not include students who have learning problems that are primarily the result of visual perceptual and/or visual motor difficulties.

(2) Activities Prior to Referral. Prior to referral for evaluation, the requirements in Rule 6A-6.0331, F.A.C., must be met.

(3) Procedures for student evaluation.

(a) The minimum procedures necessary for determining eligibility shall include:

1. A medical eye examination describing: etiology, diagnosis, treatment regimen, prognosis, near/distance, corrected/uncorrected acuity measures for left eye, right eye and both eyes, measure of field of vision, and recommendations for lighting levels, physical activity, aids, or use of glasses, as appropriate. For children birth to five (5) years of age or students who are otherwise unable to be assessed, a medical assessment describing visual functioning shall be documented when standard visual acuities and measure of field of vision are unattainable.

2. If a medical criterion listed in paragraph (4)(a) of this rule is met, then in addition to the provisions of Rule 6A-6.0331, F.A.C., a comprehensive assessment of skills known to be impacted by visual impairment, shall include, but is not limited to: functional vision evaluation, learning media assessment, and, if appropriate, orientation and mobility assessment.

(b) Reevaluation shall occur at least every three (3) years and shall include a minimum of a medical eye examination within the last calendar year, functional vision assessment, learning media assessment, and, if appropriate, any other formal evaluations addressed in the initial evaluation in accordance with Rule 6A-6.0331, F.A.C. The medical aspect of a reevaluation for students with bilateral anophthalmia may be waived by a written recommendation of a physician.

(4) Criteria for eligibility. A student is eligible for

special education and related services if the following medical and educational criteria are met:

(a) Medical. A licensed ophthalmologist or optometrist has documented an eye condition that causes an impairment as manifested by at least one of the following:

1. A visual acuity of 20/70 or less in the better eye after best possible correction;

2. A peripheral field so constricted that it affects the student's ability to function in an educational setting;

3. A progressive loss of vision which may affect the student's ability to function in an educational setting, not including students who have learning problems that are primarily the result of visual perceptual and/or visual motor difficulties, or,

4. For children birth to five (5) years of age or students who are otherwise unable to be assessed, bilateral lack of central, steady, or maintained fixation of vision with an estimated visual acuity of 20/70 or less after best possible correction; bilateral central scotoma involving the perimacula area (20/80-20/200); bilateral grade III, IV, or V Retinopathy of Prematurity (ROP); or documented eye impairment as stated in paragraph (3)(a) of this rule.

(b) The student needs special education as defined in Rules 6A-6.0331 and 6A-6.03411, F.A.C.

(5) Supportive services.

(a) The district shall make available the professional services needed to support the program. This shall include registration of all students who are visually impaired for services from the Florida Instructional Materials Center for the Visually Impaired.

(b) Other support services may include, but are not limited to:

1. Provision of specialized textbooks, learning materials, assessment materials, and equipment; and

2. Cooperative planning with the Division of Blind Services, including parent involvement activities.

Specific Authority 1001.02, 1001.42(4)(1), 1003.(3)(a), (b), 1003.55, 1003.57 FS. Law Implemented 1001.02, 1010.305(2), 1003.57, 1011.62(1)(c) FS. History-New 7-1-77, Amended 7-13-83, Formerly 6A-6.3014, Amended 2-12-91, 3-1-08.

#### **6A-6.030151 Exceptional Student Education Eligibility for Students with Orthopedic Impairment.**

(1) Definition. Orthopedic impairment means a severe skeletal, muscular, or neuromuscular impairment. The term includes impairments resulting from congenital anomalies (e.g. including but not limited to skeletal deformity or spina bifida), and impairments resulting from other causes (e.g., including but not limited to cerebral palsy or amputations).

(2) General education interventions and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) A report of a medical examination, within the previous twelve-month (12) period, from a physician(s) licensed in Florida in accordance with Chapter 458 or 459,

F.S., unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the impairment and any medical implications for instruction; and,

(b) An educational evaluation that identifies educational and environmental needs of the student.

(4) Criteria for eligibility. A student with an orthopedic impairment is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of an orthopedic impairment that adversely affects the student's performance in the educational environment in any of the following: ambulation, hand movement, coordination, or daily living skills; and,

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

Rulemaking Authority 1003.01, 1003.57(1)(e), 1003.571 FS. Law Implemented 1003.01(3), 1003.57(1)(e), 1003.571 FS. History-New 7-1-07, Amended 12-15-09.

#### **6A-6.030152 Exceptional Student Education Eligibility for Students with Other Health Impairment.**

(1) Definition. Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems. This includes, but is not limited to, asthma, attention deficit disorder or attention deficit hyperactivity disorder, Tourette syndrome, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and acquired brain injury.

(2) General education interventions and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) A report of a medical examination, within the previous twelve-month (12) period, from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, F.S., unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the impairment and any medical implications for instruction; and,

(b) An educational evaluation that identifies educational and environmental needs of the student.

(4) Criteria for eligibility. A student with other health impairment is eligible for exceptional student education if the following criteria are met:

(a) Evidence of other health impairment that results in reduced efficiency in schoolwork and adversely affects the student's performance in the educational environment; and,

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

Rulemaking Authority 1003.01, 1003.57(1)(e), 1003.571 FS. Law Implemented 1003.01(3), 1003.21(1), 1003.57(1)(e), 1003.571 FS. History-New 7-1-07, Amended 12-15-09.

#### **6A-6.030153 Exceptional Student Education Eligibility for Students With Traumatic Brain Injury.**

(1) Definition. A traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to mild, moderate, or severe, open or closed head injuries resulting in impairments in one (1) or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, or speech. The term includes anoxia due to trauma. The term does not include brain injuries that are congenital, degenerative, or induced by birth trauma.

(2) General education interventions and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) A report of medical examination, within the previous twelve-month (12) period from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, F.S., unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the traumatic brain injury and any medical implications for instruction;

(b) Documented evidence by more than one person, including the parent, guardian, or primary caregiver, in more than one situation. The documentation shall include evidence of a marked contrast of pre and post-injury capabilities in one or more of the following areas: cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities, psychosocial behavior; physical functions; information processing or speech; and

(c) An educational evaluation that identifies educational and environmental needs of the student.

(4) The evaluation may also include a neuropsychological evaluation when requested by the exceptional student education administrator or designee.

(5) Criteria for eligibility. A student with a traumatic brain injury is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of a traumatic brain injury that impacts one or more of the areas identified in subsection (1) of this rule.

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

Rulemaking Authority 1003.01, 1003.57(1)(e), 1003.571 FS. Law Implemented 1003.01(3), 1003.57(1)(e), 1003.571 FS. History-New 7-1-07, Amended 12-15-09.

**6A-6.03016 Exceptional Student Education Eligibility for Students with Emotional/Behavioral Disabilities.**

(1) Definition. Students with an emotional/behavioral disability (E/BD). A student with an emotional/behavioral disability has persistent (is not sufficiently responsive to implemented evidence based interventions) and consistent emotional or behavioral responses that adversely affect performance in the educational environment that cannot be attributed to age, culture, gender, or ethnicity.

(2) General education interventions and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) A functional behavioral assessment (FBA) must be conducted. The FBA must identify the specific behavior(s) of concern, conditions under which the behavior is most and least likely to occur, and function or purpose of the behavior. A review, and if necessary, a revision of an FBA completed as part of general education interventions may meet this requirement if it meets the conditions described in this section. If an FBA was not completed to assist in the development of general education interventions, one must be completed and a well-delivered scientific, research-based behavioral intervention plan of reasonable intensity and duration must be implemented with fidelity prior to determining eligibility. Implementation of the behavioral intervention plan is not required in extraordinary circumstances described in paragraph (4)(e) of this rule;

(b) The evaluation must include documentation of the student's response to general education interventions implemented to target the function of the behavior as identified in the FBA;

(c) A social/developmental history compiled from a structured interview with the parent or guardian that addresses developmental, familial, medical/health, and environmental factors impacting learning and behavior, and which identifies the relationship between social/developmental and socio-cultural factors, and the presence or non-presence of emotional/behavioral responses beyond the school environment;

(d) A psychological evaluation conducted in accordance with Rule 6A-6.0331, F.A.C. The psychological evaluation should include assessment procedures necessary to identify the factors contributing to the development of an emotional/behavioral disability, which include behavioral observations and interview data relative to the referral concerns, and assessment of emotional and behavioral functioning, and may also include information on developmental functioning and skills. The psychological evaluation shall include a review of general education interventions that have already been implemented and the criteria used to evaluate their success;

(e) A review of educational data which includes information on the student's academic levels of performance, and the relationship between the student's academic performance and the emotional/behavioral disability; additional academic evaluation may be completed if

needed; and,

(f) A medical evaluation must be conducted when it is determined by the administrator of the exceptional student program or the designee that the emotional/behavioral responses may be precipitated by a physical problem.

(4) Criteria for eligibility. A student with an emotional/behavioral disability must demonstrate an inability to maintain adequate performance in the educational environment that cannot be explained by physical, sensory, socio-cultural, developmental, medical, or health (with the exception of mental health) factors; and must demonstrate one or more of the following characteristics described in paragraph (4)(a) or (4)(b) of this rule and meet the requirements of paragraphs (4)(c) and (4)(d) of this rule:

(a) Internal factors characterized by:

1. Feelings of sadness, or frequent crying, or restlessness, or loss of interest in friends and/or school work, or mood swings, or erratic behavior; or

2. The presence of symptoms such as fears, phobias, or excessive worrying and anxiety regarding personal or school problems; or

3. Behaviors that result from thoughts and feelings that are inconsistent with actual events or circumstances, or difficulty maintaining normal thought processes, or excessive levels of withdrawal from persons or events; or

(b) External factors characterized by:

1. An inability to build or maintain satisfactory interpersonal relationships with peers, teachers, and other adults in the school setting; or

2. Behaviors that are chronic and disruptive such as noncompliance, verbal and/or physical aggression, and/or poorly developed social skills that are manifestations of feelings, symptoms, or behaviors as specified in subparagraphs (4)(a)1.-3. of this rule.

(c) The characteristics described in paragraph (4)(a) or (b) of this rule must be present for a minimum of six (6) months duration and in two (2) or more settings, including but not limited to, school, educational environment, transition to and/or from school, or home/community settings. At least one (1) setting must include school.

(d) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

(e) In extraordinary circumstances, general education interventions and activities as described in subsection (2) of this rule and criteria for eligibility described in paragraph (4)(c) of this rule may be waived when immediate intervention is required to address an acute onset of an internal emotional/behavioral characteristic as listed in paragraph (4)(a) of this rule.

(5) Characteristics not indicative of a student with an emotional/behavioral disability:

(a) Normal, temporary (less than six (6) months) reactions to life event(s) or crisis, or

(b) Emotional/behavioral difficulties that improve significantly from the presence of evidence based implemented interventions, or

(c) Social maladjustment unless also found to have an emotional/behavioral disability.



#### **6A-6.03018 Exceptional Education Eligibility for Students with Specific Learning Disabilities.**

(1) Definition. A specific learning disability is defined as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. Associated conditions may include, but are not limited to, dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A specific learning disability does not include learning problems that are primarily the result of a visual, hearing, motor, intellectual, or emotional/behavioral disability, limited English proficiency, or environmental, cultural, or economic factors.

(2) General education intervention procedures and activities. In order to ensure that lack of academic progress is not due to lack of appropriate instruction, a group of qualified personnel must consider:

(a) Data that demonstrate that the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general education settings; and

(b) Data-based documentation, which was provided to the student's parent(s) or guardian(s), of repeated measures of achievement at reasonable intervals, graphically reflecting the student's response to intervention during instruction.

(c) General education activities and interventions conducted prior to referral in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraphs (2)(a) and (2)(b) of this rule.

(3) Evaluation. The evaluation procedures shall include the following:

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs specially designed instruction in the following circumstances:

1. The student does not make adequate progress when:

a. Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

b. Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services; and

2. Whenever a referral is made to conduct an evaluation to determine the student's need for specially designed instruction and the existence of a disability.

(b) In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed

Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C. The evaluation must adhere to the timeframe required by paragraph 6A-6.0331(3)(d), F.A.C., unless extended by mutual written agreement of the student's parent(s) or guardian(s) and a group of qualified professionals.

(4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met.

(a) Evidence of specific learning disability. The student's parent(s) or guardian(s) and group of qualified personnel may determine that a student has a specific learning disability if there is evidence of each of the following:

1. When provided with learning experiences and instruction appropriate for the student's chronological age or grade level standards pursuant to Rule 6A-1.09401, F.A.C., the student does not achieve adequately for the student's chronological age or does not meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas based on the review of multiple sources which may include group and/or individual criterion or norm-referenced measures, including individual diagnostic procedures:

- a. Oral expression;
- b. Listening comprehension;
- c. Written expression;
- d. Basic reading skills;
- e. Reading fluency skills;
- f. Reading comprehension;
- g. Mathematics calculation; or
- h. Mathematics problem solving.

2. The student does not make adequate progress to meet chronological age or grade-level standards adopted in Rule 6A-1.09401, F.A.C., in one or more of the areas identified in subparagraph (4)(a)1. of this rule when using one of the following processes:

a. A process based on the student's response to scientific, research-based intervention, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.; or

b. A process based on the student's response to scientific, research-based intervention, and the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards pursuant to Rule 6A-1.09401, F.A.C., or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.

3. The group determines that its findings under paragraph (a) of this subsection are not primarily the result of the following:

- a. A visual, hearing, or motor disability;
- b. Intellectual disability;
- c. Emotional/behavioral disability;
- d. Cultural factors;
- e. Irregular pattern of attendance and/or high mobility rate;



- f. Classroom behavior;
- g. Environmental or economic factors; or
- h. Limited English proficiency.

(b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student's parents or guardians and a group of qualified professionals, which must include, but are not limited to, all of the following:

1. The student's general education teacher; if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her chronological age;
2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including, but not limited to, a school psychologist, speech-language pathologist, or reading specialist; and
3. The district administrator of exceptional student education or designee.

(c) Observation requirement. In determining whether a student needs specially designed instruction and has a specific learning disability, and in order to document the relationship between the student's classroom behavior and academic performance, the group must:

1. Use information from an observation in routine classroom instruction and monitoring of the student's performance that was completed before referral for an evaluation; or
2. Have at least one member of the group conduct an observation of the student's performance in the student's typical learning environment, or in an environment appropriate for a student of that chronological age, after referral for an evaluation and parental or guardian consent has been obtained.

(5) Documentation of determination of eligibility. For a student suspected of having a specific learning disability, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

- (a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection (6) of Rule 6A-6.0331, F.A.C.;
- (b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;
- (c) The educationally relevant medical findings, if any;
- (d) Whether the student has a specific learning disability as evidenced by response to intervention data confirming the following:
  1. Performance discrepancy. The student's academic performance is significantly discrepant for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, which include the peer subgroup, classroom, school, district, and state level comparison groups; and
  2. Rate of progress. When provided with well-delivered scientific, research-based general education

instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the achievement gap with typical peers or academic expectations for the chronological age or grade level in which the student is currently enrolled; and

3. Educational need. The student continues to need interventions that significantly differ in intensity and duration from what can be provided solely through general education resources to make or maintain sufficient progress.

(e) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, intellectual, or emotional/behavioral disability; cultural factors; environmental or economic factors; an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g. number of weeks, minutes per week, sessions per week), and the student-centered data collected; and

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(g) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(6) Implementation.

(a) The district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students, as required by Rule 6A-6.03411, F.A.C., must identify the applicable process described in sub-subparagraphs (4)(a)2.a. and (4)(a)2.b. of this rule on a school-by-school basis.

(b) Effective July 1, 2010, the process specified in sub-subparagraph (4)(a)2.a. becomes the required process and sub-subparagraph (4)(a)2.b. becomes obsolete.

(c) For schools using eligibility process described in sub-subparagraph (4)(a)2.b. until July 1, 2010, a description of the pattern of strengths and weaknesses that is determined by the group to be relevant to the identification of a specific learning disability must be documented in the written summary required by subsection (5) of this rule.

Specific Authority 1001.02(1), (2)(n), 1001.42(4)(1), 1003.01(3)(a), (b),

#### **6A-6.03019 Special Instructional Programs for Students Who Are Gifted.**

(1) Gifted. One who has superior intellectual development and is capable of high performance.

(2) Criteria for eligibility. A student is eligible for special instructional programs for the gifted if the student meets the criteria under paragraph (2)(a) or (b) of this rule.

(a) The student demonstrates:

1. Need for a special program.
2. A majority of characteristics of gifted students according to a standard scale or checklist, and
3. Superior intellectual development as measured by an intelligence quotient of two (2) standard deviations or more above the mean on an individually administered standardized test of intelligence.

(b) The student is a member of an under-represented group and meets the criteria specified in an approved school district plan for increasing the participation of under-represented groups in programs for gifted students.

1. For the purpose of this rule, under-represented groups are defined as groups:
  - a. Who are limited English proficient, or
  - b. Who are from a low socio-economic status family.
2. The Department of Education is authorized to approve school district plans for increasing the participation of students from under-represented groups in special instructional programs for the gifted, provided these plans include the following:
  - a. A district goal to increase the percent of students from under-represented groups in programs for the gifted and the current status of the district in regard to that goal;
  - b. Screening and referral procedures which will be used to increase the number of these students referred for evaluation;
  - c. Criteria for determining eligibility based on the student's demonstrated ability or potential in specific areas of leadership, motivation, academic performance, and creativity;
  - d. Student evaluation procedures, including the identification of the measurement instruments to be used;
  - e. Instructional program modifications or adaptations to ensure successful and continued participation of students from under-represented groups in the existing instructional program for gifted students;
  - f. An evaluation design which addresses evaluation of progress toward the district's goal for increasing participation by students from under-represented groups.
- (3) Procedures for student evaluation. The minimum evaluations for determining eligibility are the following:
  - (a) Need for a special instructional program,
  - (b) Characteristics of the gifted,
  - (c) Intellectual development, and
  - (d) May include those evaluation procedures specified in an approved district plan to increase the participation

of students from under-represented groups in programs for the gifted.

Specific Authority 229.053(1), 230.23(4)(m) FS. Law Implemented 228.041(18)(19), 229.565(2)(b)(c), 230.23(4)(m) FS. History - New 7-1-77, Formerly 6A-6.3019, Amended 10-10-91, 5-19-98, 7-14-02.

#### **6A-6.030191 Development of Educational Plans for Exceptional Students who are Gifted.**

Educational Plans (EPs) are developed for students identified solely as gifted. Parents are partners with schools and school district personnel in developing, reviewing, and revising the educational plan (EP) for their child. Procedures for the development of the EPs for exceptional students who are gifted, including procedures for parental involvement, shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students document and shall be consistent with the following requirements.

(1) Role of parents. The role of parents in developing EPs includes:

- (a) Providing critical information regarding the strengths of their child;
- (b) Expressing their concerns for enhancing the education of their child so that they receive a free appropriate public education;
- (c) Participating in discussions about the child's need for specially designed instruction;
- (d) Participating in deciding how the child will be involved and progress in the general curriculum; and
- (e) Participating in the determination of what services the school district will provide to the child and in what setting.

(2) Parent participation. Each school board shall establish procedures which shall provide for parents to participate in decisions concerning the EP. Such procedures shall include the following:

- (a) Each district shall take the following steps to ensure that one (1) or both of the parents of a student who is gifted is present or is afforded the opportunity to participate at each EP meeting:
  1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  2. Scheduling the meeting at a mutually agreed on time and place.
- (b) A written notice to the parents must indicate the purpose, time, location of the meeting, and who, by title and or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite an individual with special knowledge or expertise about their child.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

1. Detailed records of telephone calls made or at-

tempted and the results of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents understand the proceedings at an EP meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the EP at no cost to the parents.

(3) Educational plan (EP) team participants. The EP team shall include the following participants:

(a) The parents of the student in accordance with subsection (2) of this rule;

(b) One regular education teacher of the student who, to the extent appropriate, is involved in the development and review of a student's EP. Involvement may be the provision of written documentation of a student's strengths and needs.

(c) At least one teacher of the gifted program;

(d) A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students who are gifted, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, one of the student's teachers may be designated to also serve as the representative of the school district;

(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team as described in paragraphs (3) (b)-(d) of this rule;

(f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student. The determination of knowledge or special expertise of any individual shall be made by the party who invites the individual to be a member of the EP team; and

(g) The student, as appropriate.

(4) Contents of Educational Plans (EPs). EPs for students who are gifted must include:

(a) A statement of the student's present levels of performance which may include, but is not limited to, the student's strengths and interests, the student's needs beyond the general curriculum, results of the student's performance on state and district assessments, and evaluation results;

(b) A statement of goals, including benchmarks or short term objectives;

(c) A statement of the specially designed instruction to be provided to the student;

(d) A statement of how the student's progress toward the goals will be measured and reported to parents; and

(e) The projected date for the beginning of services, and the anticipated frequency, location, and duration of those services;

(5) Considerations in EP development, review and

revision. The EP team shall consider the following:

(a) The strengths of the student and needs resulting from the student's giftedness.

(b) The results of recent evaluations, including class work and state or district assessments.

(c) In the case of a student with limited English proficiency, the language needs of the student as they relate to the EP.

(6) Timelines. Timelines for EP meetings for students who are gifted shall include the following:

(a) An EP must be in effect at the beginning of each school year.

(b) An EP shall be developed within thirty (30) calendar days following the determination of eligibility for specially designed instruction and shall be in effect before the provision of these services.

(c) Meetings shall be held to develop and revise the EP at least every three (3) years for students in grades K-8 and at least every four (4) years for students in grades 9-12. EPs may be reviewed more frequently as needed, such as when the student transitions from elementary to middle school and middle to high school or if the student's parent or teacher requests a review.

(7) EP Implementation. An EP must be in effect before specially designed instruction is provided to an eligible student and is implemented as soon as possible following the EP meeting.

(a) The EP shall be accessible to each of the student's teachers who are responsible for the implementation.

(b) Each teacher of the student shall be informed of specific responsibilities related to implementing the student's EP.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(5) FS. Law Implemented 1003.01(3)(a)(b), 1001.42(4)(l), 1011.62(1)(c), 1001.03(8), FS. History - New 9-20-04.

#### **6A-6.03020 Specially Designed Instruction for Students Who Are Homebound or Hospitalized.**

(1) Homebound or hospitalized. A homebound or hospitalized student is a student who has a medically diagnosed physical or psychiatric condition which is acute or catastrophic in nature, or a chronic illness, or a repeated intermittent illness due to a persisting medical problem and which confines the student to home or hospital, and restricts activities for an extended period of time. The medical diagnosis shall be made by a licensed physician.

(2) The term licensed physician, as used in this rule, is defined in Chapters 458 and 459, F.S., and is one who is qualified to assess the student's physical or psychiatric condition.

(3) Criteria for eligibility. A student, who is homebound or hospitalized, is eligible for specially designed instruction if the following criteria are met:

(a) A licensed physician must certify that the student:

1. Is expected to be absent from school due to a physical or psychiatric condition for at least fifteen (15) consecutive school days, or the equivalent on the block schedule, or due to a chronic condition, for at least fifteen (15) school days, or the equivalent on a block schedule, which need not run consecutively;

2. Is confined to home or hospital;  
3. Will be able to participate in and benefit from an instructional program;

4. Is under medical care for illness or injury which is acute, catastrophic, or chronic in nature; and

5. Can receive instructional services without endangering the health and safety of the instructor or other students with whom the instructor may come in contact.

(b) The student is enrolled in a public school in kindergarten through twelfth grade prior to the referral for homebound or hospitalized services, unless the student meets criteria for eligibility under Rules 6A-6.03011, 6A-6.03012, 6A-6.03013, 6A-6.03014, 6A-6.030151, 6A-6.030152, 6A-6.030153, 6A-6.03016, 6A-6.03018, 6A-6.03022, 6A-6.03023, and 6A-6.03027, F.A.C.; and

(c) A parent, guardian or primary caregiver signs parental agreement concerning homebound or hospitalized policies and parental cooperation.

(4) Procedures for student evaluation.

(a) The minimum evaluation for a student to determine eligibility shall be an annual medical statement from a licensed physician(s) including a description of the disabling condition or diagnosis with any medical implications for instruction. This report shall state that the student is unable to attend school, describe the plan of treatment, provide recommendations regarding school re-entry, and give an estimated duration of condition or prognosis. The team determining eligibility may require additional evaluation data. This additional evaluation data must be provided at no cost to the parent.

(b) A physical reexamination and a medical report by a licensed physician(s) may be requested by the administrator of exceptional student education or the administrator's designee on a more frequent basis than required in paragraph (4)(a) of this rule and may be required if the student is scheduled to attend school part of a day during a recuperative period of readjustment to a full school schedule. This physical reexamination and medical report shall be provided at no cost to the parent.

(5) Procedures for determining eligibility. Procedures for determining eligibility shall be in accordance with Rule 6A-6.0331, F.A.C.

(6) Procedures for providing an individual educational plan. The individual educational plan shall be developed or revised prior to assignment to the homebound or hospitalized program placement as required in Rule 6A-6.03028, F.A.C. A student may be alternatively assigned to the homebound or hospitalized program and to a school-based program due to an acute, chronic, or intermittent condition as certified by a licensed physician, as specified in subparagraph (3)(a)1. of this rule. This decision shall be made by the individual educational plan (IEP) team in accordance with the requirements of Rule 6A-6.03028, F.A.C.

(7) Instructional services. The following settings and instructional modes, or a combination thereof, are appropriate methods for providing instruction to students determined eligible for these services:

(a) Instruction in a home. The parent, guardian or primary caregiver shall provide a quiet, clean, well-ven-

tilated setting where the teacher and student will work; ensure that a responsible adult is present; and establish a schedule for student study between teacher visits which takes into account the student's medical condition and the requirements of the student's coursework.

(b) Instruction in a hospital. The hospital administrator or designee shall provide appropriate space for the teacher and student to work and allow for the establishment of a schedule for student study between teacher visits.

(c) Instruction through telecommunications or computer devices. When the individual education plan (IEP) team determines that instruction is by telecommunications or computer devices, an open, uninterrupted telecommunication link shall be provided at no additional cost to the parent, during the instructional period. The parent shall ensure that the student is prepared to actively participate in learning.

Specific Authority 1001.02(1), (2)(n), 1003.01(3)(a), 1003.57(5) FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57(5), 1011.62(l) (c) FS. History-New 7-1-77, Amended 7-2-79, 4-27-82, Formerly 6A-6.3020, Amended 5-18-86, 9-20-04, 9-20-04, 1-16-08.  
Cf. PL 105-17 (20 USC 1401, 1412, 1414, 1415).

#### **6A-6.03022 Special Programs for Students who are Dual-Sensory Impaired.**

(1) Dual-Sensory Impaired. A student who has dual-sensory impairments affecting both vision and hearing, the combination of which causes a serious impairment in the abilities to acquire information, communicate, or function within the environment, or who has a degenerative condition which will lead to such an impairment.

(2) Criteria. A student is eligible for a special program for students with dual-sensory impairments if the student has:

(a) One or more of the following visual impairments:

1. A visual acuity of 20/70 or less in the better eye after best correction;
2. A peripheral field loss;
3. A progressive vision loss; or
4. Other documented visual conditions including but not limited to extreme light sensitivity or lack of contrast sensitivity; and

(b) One or more of the following hearing impairments:

1. Hearing impairment of 30db or greater unaided in the better ear;
2. Other documented auditory conditions including but not limited to monaural loss or an inability to screen out auditory background sounds; or
3. A progressive hearing loss; and

(c) A combination of the visual and auditory impairments as specified above which adversely effects, or has the potential to adversely effect, the student's abilities to acquire information, communicate, or function within the environment, unless special instruction, materials, adaptations, or counseling are provided; or

(d) A diagnosed degenerative condition or syndrome which will lead to dual-sensory impairment and is likely to



adversely affect the areas listed above.

(3) Procedures for student evaluation. The minimum evaluations which must be conducted to determine eligibility shall include:

(a) For students with a suspected degenerative condition or syndrome which will lead to dual-sensory impairment; a medical statement confirming the existence of such a condition or syndrome and its prognosis;

(b) For students who are under the age of three (3) years:

1. A medial eye exam describing etiology, diagnosis, and prognosis,
2. Documented observation of functional vision which includes possible impediments to visual use,
3. An audiological exam, and
4. Documented observation of auditory functioning.

(c) For students who are over the age of three (3) years:

1. All items included in paragraph (3)(b) of this rule,
2. An assessment of speech and language functioning which includes a differential diagnosis of the student's linguistic abilities and of modality strengths and preferences, and
3. An assessment of intellectual functioning, developmental level, or academic functioning.

(4) Re-evaluation. Re-evaluation shall occur at least every three (3) years and shall include a minimum of the evaluations required in paragraph (3)(b) of this rule, and any other evaluations specified by an evaluation specialist and an exceptional student teacher after examination of available information in all areas addressed in the initial evaluation or in subsequent re-evaluations of the student in accordance with subsections 6A-6.0331(7), (8), F.A.C. The medical aspect of re-evaluation for students with bilateralanophthalmia may be waived by a written recommendation of a physician.

(5) Instructional Program. Each individual student who is dual-sensory impaired shall be served in any program or combination of programs for students with or without disabilities where the student can receive appropriate services. The district shall establish procedures to ensure that each student's program is adequately met.

(6) Registry. Information on all students who are dual-sensory impaired shall be submitted to the state's registry of students with dual-sensory impairments and to the Florida Instructional Materials Center for the Visually Handicapped, as required for access to certain specialized services.

Rulemaking Authority 1003.01, 1003.57, 1003.571 FS. Law Implemented 1003.01, 1003.57, 1003.571 FS. History-New 7-2-79, Formerly 6A-6.3022, Amended 10-3-91, 12-15-09.

### **6A-6.03023 Exceptional Student Education Eligibility for Students With Autism Spectrum Disorder.**

(1) Definition. Students with Autism Spectrum Disorder. Autism Spectrum Disorder is defined to be a range of pervasive developmental disorders that adversely affects a student's functioning and results in the need for specially designed instruction and related services. Autism

Spectrum Disorder is characterized by an uneven developmental profile and a pattern of qualitative impairments in social interaction, communication, and the presence of restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities. These characteristics may manifest in a variety of combinations and range from mild to severe. Autism Spectrum Disorder may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Asperger's Disorder, or other related pervasive developmental disorders.

(2) General education interventions and activities. Prior to referral for evaluation the requirements in subsection 6A-6.0331(1), F.A.C., must be met.

(3) Evaluation. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation for determining eligibility shall include the following:

(a) Documented and dated behavioral observations conducted by members of the evaluation team targeting social interaction, communication skills, and stereotyped patterns of behavior, interests, or activities, across settings. General education interventions and activities conducted prior to referral may be used to meet this criterion, if the activities address the elements identified in this paragraph;

(b) A comprehensive social/developmental history compiled with the parents(s) or guardian(s) that addresses the core features of autism spectrum disorder;

(c) A comprehensive psychological evaluation to identify present levels of performance and uneven patterns of development in language, social interaction, adaptive behavior, and cognitive skills;

(d) A comprehensive speech/language evaluation; and,

(e) Medical information provided shall be considered.

(4) Criteria for eligibility. A student with Autism Spectrum Disorder is eligible for exceptional student education if all of the following criteria are met:

(a) Evidence of all of the following:

1. Uneven developmental profile as evidenced by inconsistencies across or within the domains of language, social interaction, adaptive behavior, and/or cognitive skills; and

2. Impairment in social interaction as evidenced by delayed, absent, or atypical ability to relate to people or the environment; and

3. Impairment in verbal and/or nonverbal language or social communication skills, and

4. Restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.

Rulemaking Authority 1003.01, 1003.57, 1003.571 FS. Law Implemented 1003.01, 1003.57, 1003.571 FS. History-New 7-2-79, Formerly 6A-6.3023, Amended 7-1-07, 12-15-09.

### **6A-6.03024 Provision of Occupational or Physical Therapy to Exceptional Students as a Related Service.**

(1) Definitions.

(a) Occupational therapy is defined to mean services provided by a licensed occupational therapist or a



licensed occupational therapy assistant pursuant to the provisions of the Occupational Therapy Practice Act found in Part III, Chapter 468, F.S., and sub-subparagraph 6A-6.03411(1)(dd)3.f., F.A.C.

(b) Physical therapy is defined to mean services provided by a licensed physical therapist or a licensed physical therapist assistant pursuant to the provisions of the Physical Therapy Practice Act found in Chapter 486, F.S., and sub-subparagraph 6A-6.03411(1)(dd)3.i., F.A.C.

(c) Related service provider is defined to mean the licensed occupational or physical therapist responsible for the assessment and provision of school-based occupational or physical therapy as a related service as defined in Section 1003.01(3)(b), F.S., and subparagraph 6A-6.03411(1)(dd)3., F.A.C.

(2) Assessments. Assessments as defined in Section 468.203 or 486.021, F.S., shall be conducted by the related service provider prior to the provision of occupational or physical therapy.

(3) Determination of need for occupational or physical therapy. The individual educational plan (IEP) team in accordance with Rule 6A-6.03028, F.A.C., the educational plan (EP) team in accordance with Rule 6A-6.030191, F.A.C., or the individualized family support plan (IFSP) team, in accordance with Rule 6A-6.03029, F.A.C., shall review assessments conducted by the related service provider and all other relevant data to determine if occupational or physical therapy services are needed to assist a student to benefit from specially designed instruction.

(4) Provision of input to planning teams. The licensed therapist or licensed assistant shall provide input to assist the IEP, EP, or IFSP team when the educational need for occupational or physical therapy as a related service is being determined, and when an IEP, EP, or IFSP for a student who is receiving occupational or physical therapy as a related service is being reviewed by the IEP, EP, or IFSP team.

(5) Plan of treatment. Once the educational need for occupational or physical therapy has been determined in accordance with the provisions of this rule, a plan of treatment as referenced in Section 468.203 or 486.021, F.S., and the corresponding requirement found Rule 6A-6.03001, F.A.C., shall be developed. The plan of treatment may be included as a part of the IEP, EP, or IFSP.

Rulemaking Authority 1001.02, 1003.01(3), 1003.57, 1003.571, F.S. Law Implemented 1003.01(3), 1003.57, 1003.571 F.S. History—New 11-25-80, Amended 2-4-81, Formerly 6A-6.3024, Amended 2-12-91, 9-30-96, 8-22-12.

#### **6A-6.03026 Eligibility Criteria for Prekindergarten Children with Disabilities.**

(1) A prekindergarten child with disability is a child who meets the following criteria:

(a) The child is below three (3) years of age and meets criteria for eligibility specified for intellectual disabilities in accordance with Rule 6A-6.03011, F.A.C.; deaf or hard of hearing in accordance with Rule 6A-6.03013, F.A.C.; visually impaired in accordance with Rule 6A-6.03014, F.A.C.; orthopedically impaired in accordance

with Rule 6A-6.030151, F.A.C.; other health impaired in accordance with Rule 6A-6.030152, F.A.C.; traumatic brain injury in accordance with Rule 6A-6.030153, F.A.C.; dual sensory impaired in accordance with Rule 6A-6.03022, F.A.C.; autism spectrum disorder in accordance with Rule 6A-6.03023, F.A.C.; an established condition in accordance with Rule 6A-6.03030, F.A.C.; or developmentally delayed in accordance with Rule 6A-6.03031, F.A.C.

(b) The child is three (3) through five (5) years of age and meets criteria for eligibility specified for intellectual disabilities in accordance with Rule 6A-6.03011, F.A.C.; speech impaired in accordance with Rule 6A-6.03012, F.A.C.; language impaired in accordance with Rule 6A-6.030121, F.A.C.; deaf or hard of hearing in accordance with Rule 6A-6.03013, F.A.C.; visually impaired in accordance with Rule 6A-6.03014, F.A.C.; orthopedically impaired in accordance with Rule 6A-6.030151, F.A.C.; other health impaired in accordance with Rule 6A-6.030152, F.A.C.; traumatic brain injury in accordance with Rule 6A-6.030153, F.A.C.; emotional or behavioral disabilities in accordance with Rule 6A-6.03016, F.A.C.; specific learning disabilities in accordance with Rule 6A-6.03018, F.A.C.; homebound or hospitalized in accordance with Rule 6A-6.03020, F.A.C.; dual sensory impaired in accordance with Rule 6A-6.03022, F.A.C.; autism spectrum disorder in accordance with Rule 6A-6.03023, F.A.C.; or developmentally delayed in accordance with Rule 6A-6.03027, F.A.C.

(2) Determination of Eligibility. Meetings held to determine eligibility shall be conducted in accordance with subsection 6A-6.0331(6), F.A.C.

(3) Procedures for evaluation.

(a) An evaluation of the child shall be conducted in accordance with requirements of rules listed in subsection (1) of this rule, and Rule 6A-6.0331, F.A.C.

(b) Existing screening and evaluation information available from agencies that previously served the child and family shall be used, as appropriate, to meet the evaluation requirements of the rules listed in subsection (1) of this rule.

(4) Instructional program.

(a) A child who is eligible for admission to public kindergarten in accordance with Section 1003.21, F.S., and is eligible as a child with a disability in accordance with one or more of the rules identified in paragraph (1)(b) of this rule, may receive instruction for one additional school year in a prekindergarten classroom in accordance with the child's individual educational plan (IEP) or individualized family support plan (IFSP). The parent or guardian of a child who receives instruction for this additional year in prekindergarten must be informed in writing of future implications of such a decision with regard to the requirements of mandatory retention in accordance with Section 1008.25, F.S. If the parent or guardian does not concur with the IEP or IFSP team's recommendation for an additional year of instruction in a prekindergarten classroom, the IEP or IFSP team recommendation may not be used to deny admission to public kindergarten of a child who is eligible for admission in accordance with Section 1003.21, F.S.

(b) In the provision of early intervention services as

defined in paragraph 6A-6.03411(1)(i), F.A.C., for eligible infants or toddlers with disabilities, home instruction may include direct instruction of the parent, guardian, or primary caregiver.

Rulemaking Authority 1001.02, 1003.01, 1003.21, 1003.57 FS. Law Implemented 1003.01, 1003.21, 1003.57 FS. History -New 5-18-86, Amended 7-13-93, 1-4-94, 3-25-13.

#### **6A-6.03027 Special Programs for Children Three Through Five Years Old who are Developmentally Delayed.**

(1) Definition. A child who is developmentally delayed is three (3) through five (5) years of age and is delayed in one (1) or more of the following areas:

- (a) Adaptive or self-help development,
- (b) Cognitive development,
- (c) Communication development,
- (d) Social or emotional development,
- (e) Physical development including fine, or gross, or perceptual motor.

(2) Criteria for eligibility. A child is eligible for the special program for children who are developmentally delayed when the following criteria are met:

- (a) The child is three (3) through five (5) years of age.
- (b) Documentation of one of the following:
  - 1. A score of two (2) standard deviations (SD) below the mean or a twenty-five (25) percent delay on measures yielding scores in months in at least one (1) area of development; or
  - 2. A score of 1.5 standard deviations (SD) below the mean or a twenty (20) percent delay on measures yielding scores in months in at least two (2) areas of development; or
  - 3. Based on informed clinical opinion, the eligibility staffing committee makes a recommendation that a developmental delay exists and exceptional student education services are needed.

(c) The eligibility staffing committee in accordance with subsection 6A-6.0331(6), F.A.C., has made a determination concerning the effects of the environment, cultural differences, or economic disadvantage.

(3) Procedures prior to initial evaluation for prekindergarten children shall be in accordance with subsection (2) of Rule 6A-6.0331, F.A.C. General education interventions and activities for students in kindergarten shall be in accordance with subsection (1) of Rule 6A-6.0331, F.A.C.

(4) Procedures for evaluation.

(a) Delay is documented by a multidisciplinary team utilizing multiple measures of assessment which include:

- 1. Standardized instruments, judgement based assessments, criterion referenced instruments, systematic observation, functional skills assessments, or other procedures selected in consultation with the parent(s); or
- 2. Informed clinical opinion utilizing qualitative and quantitative information to determine the need for early intervention services; and,
- 3. Parent report which can confirm or modify information obtained and describe behavior in environments that the district may not be able to access.

(b) When a developmental delay cannot be verified by the use of standardized instruments, the delay(s) may be established through observation of atypical functioning in any one (1) or more of the developmental areas. A report shall be written documenting the evaluation procedures used, the results obtained, the reasons for overriding those results from standardized instruments, and the basis for recommending eligibility.

(5) Instructional program.

(a) As appropriate, the family support plan or individual educational plan (IEP) shall be developed through interagency collaboration with the family and other providers of services to the child and family and in accordance with Rules 6A-6.03026, 6A-6.03028, and 6A-6.03029, F.A.C.

(b) Because of the rapid development of young children, on-going observations and assessments shall be conducted as needed to plan for family support plans or IEP modifications.

(6) Continued eligibility. Continued eligibility for special programs shall be determined before the child is six (6) years old.

Rulemaking Authority 1003.01(3), 1003.57, 1003.571 FS. Law Implemented 1003.01(3), 1003.57, 1003.571 FS. History-New 7-13-93, Amended 12-15-09.

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

(1) Entitlement to FAPE. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to FAPE consistent with the requirements of Section 1003.571, F.S., and Rules 6A-6.03011 through 6A-6.0361, F.A.C. FAPE shall be made available to students with disabilities, including students who have been suspended or expelled, and any individual student with a disability who needs special education and related services, even though the student has not failed or been retained in a course or grade, and is advancing from grade to grade. The obligation to make FAPE available to all students with disabilities does not apply with respect to the following:

(a) Students with disabilities who have graduated from high school with a standard diploma. A standard diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate of completion or a general educational development credential (GED); and

(b) Students aged eighteen (18) through twenty-one (21) who, in the last educational placement prior to their incarceration in an adult correctional facility:

- 1. Were not actually identified as being a child with a disability pursuant to Rules 6A-6.03011 through 6A-6.0361, F.A.C.; and
- 2. Did not have an individual educational plan (IEP) in accordance with this rule.

(c) The exception in paragraph (b) of this section does not apply to students with disabilities, aged eighteen (18) through twenty-one (21), who:

- 1. Had been identified as a student with a disability

under Rules 6A-6.03011 through 6A-6.0361, F.A.C., and had received services in accordance with an IEP, but who left school prior to their incarceration; or

2. Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(2) Treatment of charter school students. Students with disabilities who attend public charter schools and their parents retain all rights under Rules 6A-6.03011 through 6A-6.0361, F.A.C. In carrying out Part B of the IDEA and Rules 6A-6.03011 through 6A-6.0361, F.A.C., with respect to charter schools that are public schools of the school district, the school district must serve students with disabilities attending those charter schools in the same manner as the district serves students with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the school district has a policy or practice of providing such services on the site to its other public schools and provide funds under Part B of the IDEA to those charter schools on the same basis as the school district provides funds to the school district's other public schools, including proportional distribution based on relative enrollment of students with disabilities and at the same time as the school district distributes other Federal funds to its other public schools.

(3) IEP Requirements. An IEP must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student.

(a) Role of parents. The role of parents in developing IEPs includes, but is not limited to:

1. Providing critical information regarding the strengths of their student;
2. Expressing their concerns for enhancing the education of their student so that their student can receive FAPE;
3. Participating in discussions about the student's need for special education and related services;
4. 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;
5. Participating in the determination of what services the school district will provide to the student and in what setting; and
6. Participating in the determination of whether the student is pursuing a course of study leading towards a standard diploma, consistent with Sections 1003.428 and 1003.4282, Florida Statutes, or a special diploma, consistent with Section 1003.438, F.S.

(b) Parent participation in meetings. Each school district shall establish procedures that provide the opportunity for one or both of the student's parents to participate in meetings and decisions concerning the IEP for the

student. Parents of each student with a disability must be members of any group that makes decisions on the educational placement of their student. Procedures to ensure participation in meetings shall include the following:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend. Any time an IEP meeting is convened for the purpose of reviewing or changing a student's IEP as it relates to administration of the Florida Alternate Assessment and the provision of instruction in the state standards access points curriculum, or placement of the student in an exceptional student education center, the school shall provide the notice to the parent at least ten (10) days prior to the meeting. The meeting may be convened prior to the tenth day if the parent consents upon receipt of the written notice; and

2. Scheduling the meeting at a mutually agreed on time and place.

3. A written notice of the meeting must be provided to the parents and must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their student and that they may request that a Part C service coordinator or other representative of the Part C system be invited to attend the initial IEP Team meeting for a child previously receiving early intervention services under Part C of the IDEA.

4. No later than the first IEP to be in effect when the student turns fourteen (14), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be identifying transition services needs of the student and that the district will invite the student.

5. Not later than the first IEP to be in effect when the student turns sixteen (16), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be consideration of the postsecondary goals and transition services for the student, that the district will invite the student, and identify any other agency that will be invited to send a representative to the meeting.

6. If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing.

7. A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place, such as:

- a. Detailed records of telephone calls made or attempted and the results of those calls;
- b. Copies of correspondence sent to the parents and any responses received; and
- c. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

8. The district shall take whatever action is necessary

to ensure that the parents and the student, beginning at age fourteen (14), understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

9. A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

10. The district shall give the parents a copy of the IEP at no cost to the parents.

(c) IEP Team participants. The IEP Team, with a reasonable number of participants, shall include:

1. The parents of the student;

2. Not less than one (1) regular education teacher of the student, if the student is or may be participating in the regular education environment. The regular education teacher of a student with a disability, as a member of the IEP Team, must to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:

a. Appropriate positive behavioral interventions and supports and other strategies for the student; and

b. Supplementary aids and services, classroom accommodations, modifications or supports for school personnel that will be provided for the student consistent with this rule.

3. Not less than one (1) special education teacher of the student, or where appropriate, not less than one special education provider of the student;

4. A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, the student's special education teacher may be designated to also serve as the representative of the school district if the teacher meets the requirements described in this paragraph;

5. An individual who can interpret the instructional implications of evaluation results who may be a member of the IEP Team as described in subparagraph (3)(c)3., or (3)(c)4., of this rule;

6. At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise of any such individual shall be made by the party who invited the individual to be a member of the IEP Team; and

7. The student, if appropriate, and in all cases where a purpose of the meeting will be the identification of the student's transition services needs or consideration of postsecondary goals for the student and the transition services needed to assist the student in reaching those

goals. If the student does not attend the IEP meeting to identify transition services needs or consider postsecondary goals and transition services, the school district shall take other steps to ensure that the student's preferences and interests are considered.

8. To the extent appropriate and with the consent of the parents or a student who has reached the age of majority, the school district shall invite a representative of any participating agency that may be responsible for providing or paying for transition services. Parental consent or the consent of the student who has reached the age of majority must also be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

9. In the case of a child who was previously served and received early intervention services under Part C of the IDEA, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

(d) IEP Team member excusal. A member of the IEP Team described in subparagraph (3)(c)2., or (3)(c)3., or (3)(c)4., or (3)(c)5. above is not required to attend an IEP Team meeting, in whole or in part, if the parent of a student with a disability and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. Any such member of the IEP Team may also be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the school district consent to the excusal and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(e) Transition of children with disabilities from the infants and toddlers early intervention program.

1. By the third (3rd) birthday of a child who has been participating in the early intervention program for infants and toddlers with disabilities, an IEP consistent with this rule or an individual family support plan consistent with Rule 6A-6.03029, F.A.C., must be developed and implemented.

2. For the purpose of implementing the requirement of this rule, each school district will participate in transition planning conferences arranged by the state lead agency for the infants and toddlers with disabilities early intervention program.

3. If the child's third (3rd) birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or individual family support plan will begin.

(f) IEP and meeting timelines. Timelines for IEPs for students with disabilities shall include the following:

1. An IEP, which has been reviewed, and if appropriate, revised periodically, but not less than annually, must be in effect at the beginning of each school year for each eligible student with a disability within its jurisdiction.

2. An IEP must be developed within thirty (30)



calendar days following the determination of a student's eligibility for special education and related services and be in effect prior to the provision of these services.

3. Meetings shall be held to develop, review and revise the IEP. A meeting shall be held at least annually to review each IEP and, as appropriate, revise its provisions in accordance with all aspects of this rule.

(g) Considerations in IEP development, review, and revision for students with disabilities. The IEP team shall consider the following in IEP development, review, and revision:

1. The strengths of the student and the concerns of the parents for enhancing the education of their student;

2. The results of the initial or most recent evaluation or reevaluation of the student;

3. As appropriate, the results of the student's performance on any general statewide or district-wide assessment;

4. The academic, developmental, and functional needs of the student;

5. In the case of a student whose behavior impedes the student's learning or the learning of others, strategies, including the use of positive behavioral interventions, supports, and other strategies to address that behavior;

6. In the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

7. In the case of a student who is blind or visually impaired, provision of instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the student's reading and writing skills, needs, including future needs, and appropriate reading and writing media (including an evaluation of the student's future need for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

8. The communication needs of the student;

9. In the case of a student who is deaf or hard-of-hearing or dual-sensory impaired, the Model Communication Plan Form 313189, effective March 2014, is available at (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03382>) or may be obtained from the Department of Education, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Room 614, Tallahassee, FL 32399. The Model Communication Plan form is incorporated by reference and shall be used to address, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

10. Whether the student requires assistive technology devices and services. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the IEP Team determines that the student needs access to those devices in order to receive a free appropriate public education; and

11. At least annually, whether extended school year services are necessary for the provision of a free appropriate public education to the student consistent with the following:

a. Extended school year services (ESY) must be provided if a student's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the student.

b. School districts may not limit ESY to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

12. If, after consideration of the factors in paragraph (3)(g), the IEP Team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education, the IEP must include a statement to that effect.

(h) Contents of the IEP. The IEP for each student with a disability must include:

1. A statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general curriculum, or for prekindergarten children, as appropriate, how the disability affects the student's participation in appropriate activities;

2. A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities and meeting each of the student's other educational needs that result from the student's disability;

3. A description of benchmarks or short-term objectives for:

a. Students with disabilities who take alternate assessments aligned to alternate achievement standards; or  
b. Any other student with a disability, at the discretion of the IEP Team.

4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the classroom accommodations, modifications or supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students in the activities described in this section. A parent must provide signed consent for a student to receive instructional accommodations that would not be permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such accommodations. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described in subparagraph (3)(h)4., of this rule;



5. A statement of any individual appropriate accommodations in the administration of statewide standardized assessments as described in Section 1008.22(3), F.S., or district assessments of student achievement that are necessary in order to measure the academic achievement and functional performance of the student on the assessments. Accommodations that negate the validity of a statewide assessment are not allowable in accordance with Section 1008.22(3)(c)3., F.S. If the IEP Team determines that the student will take the Florida Alternate Assessment instead of other statewide standardized assessments or an alternate district assessment of student achievement, the IEP must include a statement of why the student can not participate in other statewide standardized assessments or district assessments and why the particular alternate assessment selected is appropriate for the student. If a student does not participate in the statewide assessment program as a result of being granted an extraordinary exemption in accordance with the provisions of Section 1008.212, F.S., the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation in accordance with Section 1008.22(3), F.S.

6. The projected date for the beginning of the special education, services, accommodations and modifications described in subparagraph (3)(h)4., of this rule and the anticipated frequency, location, and duration of those services;

7. A statement of how the student's progress toward meeting the annual goals will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

8. In accordance with Rule 6A-1.09961, F.A.C., during the student's eighth (8th) grade year or during the school year of the student's fourteenth (14th) birthday, whichever comes first, a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma.

9. In order to ensure quality transition planning and services, IEP Teams shall begin the process of identifying transition services needs of students with disabilities, to include consideration of the student's need for instruction or the provision of information in the area of self-determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, beginning no later than age fourteen (14), so that needed postsecondary goals may be identified and in place by age sixteen (16).

10. Beginning not later than the first IEP to be in effect when the student turns sixteen (16), or younger, if determined appropriate by the IEP Team and updated annually:

a. A statement of appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services (including courses of study) needed to assist the student in reaching those goals.

b. If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP. However, this does not relieve any participating agency, including Division of Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

11. Beginning at least one (1) year before the student's eighteenth (18th) birthday, a statement that the student has been informed of his or her rights under Part B of the IDEA, if any, that will transfer from the parent to the student on reaching the age of majority, which is eighteen (18) years of age.

(i) Least restrictive environment (LRE) and placement determinations. Placement determinations shall be made in accordance with the least restrictive environment provisions of the IDEA, as follows:

1. To the maximum extent appropriate, students with disabilities, including those 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 students with disabilities from the regular educational environment occurs only if the nature or severity of the disability 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 must be available to meet the needs of students with disabilities for special education and related services, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions and a school district must make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

4. In determining the educational placement of a student with a disability, including a preschool child with a disability, each school district must ensure that:

a. The placement decision:

(I) Is made by a group of persons, including the parents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and

(II) Is made in conformity with the LRE provisions of this rule.

b. The student's placement:

(I) Is determined at least annually;

(II) Is based on the student's IEP; and

(III) Is as close as possible to the student's home.

c. Unless the IEP of a student with a disability requires some other arrangement, the student is educated in the school that he or she would attend if nondisabled;

d. In selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services that he or she needs; and

e. A student with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

5. In providing or arranging for the provision of nonacademic and extracurricular services and activities (including meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available), each school district must ensure that each student with a disability participates with students who are not disabled to the maximum extent appropriate to the needs of the student. The school district must ensure that each student with a disability has the supplementary aids and services determined by the student's IEP Team to be appropriate and necessary for the student to participate in nonacademic settings.

(j) Review and revision of the IEP. The school district shall ensure that the IEP Team:

1. Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved;

2. Revises the IEP as appropriate to address:

- a. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;

- b. The results of any reevaluation conducted;

- c. Information about the student provided to, or by, the parents;

- d. The student's anticipated needs or other matters; and

- e. Consideration of the factors described in paragraph (3)(g) of this rule; and

3. Responds to the parent's right to ask for revision of the student's IEP; and

4. Encourages the consolidation of reevaluation meetings for the student and other IEP Team meetings for the student, to the extent possible.

(k) Changes to the IEP. Generally, changes to the IEP must be made by the entire IEP Team at an IEP Team meeting and may be made by amending the IEP rather than by redrafting the entire IEP. However, in making changes to a student's IEP after the annual IEP meeting for a school year, the parent and the school district may agree not to convene an IEP Team meeting for purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP without a meeting, the school district must ensure that the student's IEP Team is informed of those changes. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

(l) Students with disabilities in adult prisons. The requirements of this rule relating to participation in general assessments do not apply to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons. In addition, the requirements relating to

transition planning and services do not apply with respect to those students whose eligibility for services under Part B of the IDEA and Rules 6A-6.03011 through 6A-6.0361, F.A.C., will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release. The IEP Team of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, and the requirements relating to IEP content and LRE do not apply with respect to such modifications made.

(m) IEP implementation and accountability. The school district, or other state agency that provides special education either directly, by contract, or through other arrangements, is responsible for providing special education to students with disabilities in accordance with the students' IEPs. However, 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. In addition:

1. The student's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

2. All teachers and providers shall be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

3. 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.

4. Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures.

(n) IEPs and meetings for students with disabilities placed in private schools or community facilities by the school district.

1. If a student with a disability is placed in a private school by the school district, in consultation with the student's parents, the school district shall:

- a. Ensure that the student has all of the rights of a student with a disability who is served by a school district.

- b. Before the school district places the student, initiate and conduct a meeting to develop an IEP for the student, in accordance with this rule or for children ages three (3) through five (5), an IEP or an IFSP in accordance with Rules 6A-6.03011 through 6A-6.0361, FAC.; and

- c. Ensure the attendance of a representative of the private school at the meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

2. After a student with a disability enters a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of the school district but the school district must ensure that the parents and a school district representative are involved in decisions about the IEP and agree to proposed changes in the IEP before those changes are implemented by the private school.

3. Even if a private school or facility implements a student's IEP, responsibility for compliance with these rules remains with the school district.

4. Subparagraphs (3)(n)1. through 3. of this rule apply only to students who are or have been placed in or referred to a private school or facility by a school district as a means of providing FAPE.

(o) If placement in a public or private residential program is necessary to provide special education to a student with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the student.

(p) Procedures for routine checking of hearing aids and external components of surgically implanted medical devices. Each school district must ensure that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly and must ensure that the external components of surgically implanted medical devices are functioning properly. For a student with a surgically implanted medical device who is receiving special education and related services under Rules 6A-6.03011 through 6A-6.0361, F.A.C., a school district is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

(q) Procedures for students with disabilities who are covered by public benefits or insurance. A school district may use the Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for services required under Rules 6A-6.03011 through 6A-6.0361, F.A.C., as permitted under the public benefits or insurance program, except as provided herein.

1. With regard to services required to provide FAPE to an eligible student under the IDEA, the school district:

a. May not require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;

b. May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to the IDEA, but pursuant to subparagraph (3)(q)3. of this rule, may pay the cost that the parent otherwise would be required to pay;

c. May not use a student's benefits under a public insurance program if that use would:

(I) Decrease available lifetime coverage or any other insured benefit;

(II) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of

the time the student is in school;

(III) Increase premiums or lead to the discontinuation of benefits or insurance; or

(IV) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

d. Prior to accessing the student's or parent's public benefits or insurance for the first time, and after providing notification to the student's parent as described in sub-subparagraph e. of paragraph (3)(q), the school district must obtain written, parental consent that specifies:

(I) The personally identifiable information that may be disclosed such as records or information about the services that may be provided to the student;

(II) The purpose of disclosure, such as for purpose of billing for services;

(III) The agency to which the disclosure may be made; and

(IV) That the parent understands and agrees that the school district may access the parent's or student's public benefits or insurance to pay for services required under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

e. Prior to accessing a student's or parent's public benefits or insurance for the first time, and annually thereafter, the school district must provide written notification consistent with the requirements found in paragraphs 6A-6.03311(1)(a) and (b), F.A.C., to the student's parents that includes:

(I) A statement of the parental consent provision in sub-subparagraph d. of this paragraph;

(II) A statement of the no cost provisions of subparagraph (3)(q)1.;

(III) A statement that the parents have the right to withdraw their consent to disclose their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance at any time; and

(IV) A statement that the withdrawal of consent or refusal to provide consent to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

2. With regard to students with disabilities who are covered by private insurance, a school district may access a parent's private insurance proceeds to provide services required under the IDEA only if the parent provides written informed consent. Each time the school district proposes to access the parent's private insurance proceeds, the agency must obtain parental consent and inform the parents that their refusal to permit the school district to access their private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

3. Use of Part B funds if parent does not give consent. If a school district is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required to ensure FAPE, the school dis-

tract may use its IDEA Part B funds to pay for the service. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the school district may use its IDEA Part B funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).

(r) Access to Instructional Materials. Each school district must take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

(s) Physical education. Physical education services, specially designed if necessary, must be made available to every student with a disability receiving FAPE, unless the school district enrolls students without disabilities and does not provide physical education to students without disabilities in the same grades. Each student with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled students unless the student is enrolled full time in a separate facility or the student needs specially designed physical education, as prescribed in the student's IEP. If specially designed physical education is prescribed in a student's IEP, the school district responsible for the education of that student must provide the services directly or make arrangements for those services to be provided through other public or private programs. The school district responsible for the education of a student with a disability who is enrolled in a separate facility must ensure that the student receives appropriate physical education services in compliance with this section.

(t) Program options. Each school district must take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the school district, including art, music, industrial arts, consumer and homemaking education, and vocational education.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22 FS. Law Implemented 1003.01(3)(a), (b), 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22 FS. History-New 7-13-93, Amended 10-17-04, 12-22-08, 12-15-09, 3-25-14.

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

School districts must maintain policies and procedures in accordance with this rule to ensure the provision of equitable services to students with disabilities who have been placed in private schools by their parents where the provision of free appropriate public education (FAPE) is not at issue.

(1) Definition of parentally-placed private school students with disabilities. For purposes of this rule, parentally-placed private school students with disabilities means students with disabilities enrolled by their parents in private, including religious, non-profit schools or facilities

that meet the definition of elementary school or secondary school under Rules 6A-6.03011 through 6A-6.0361, F.A.C., and does not include students with disabilities who are or have been placed in or referred to a private school or facility by a school district as a means of providing special education and related services.

(2) Child find for parentally-placed private school students with disabilities. Each school district must locate, identify, and evaluate all students with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, in accordance with this rule and the child find provisions of these rules. The child find process must be designed to ensure the equitable participation of parentally-placed private school students and an accurate count of those students.

(a) Activities. In carrying out the requirements of this section, the school district must undertake activities similar to the activities undertaken for the school district's public school students.

(b) Cost. The cost of carrying out the child find requirements in this rule, including individual evaluations, may not be considered in determining if a school district has met its obligation under subsection (4) of this rule.

(c) Completion period. The child find process must be completed in a time period comparable to that for other students attending public schools in the school district.

(d) Out-of-State students. Each school district in which private, including religious, elementary and secondary schools are located must, in carrying out the child find requirements in this rule, include parentally-placed private school students who reside in a State other than Florida.

(3) Confidentiality of personally identifiable information. If a student is enrolled, or is going to enroll in a private school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

(4) Provision of services for parentally-placed private school students with disabilities - basic requirement. To the extent consistent with the number and location of students with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, provision is made for the participation of those students in the program assisted or carried out under Part B of the Individuals with Disabilities Education Act (IDEA) by providing them with special education and related services, including direct services determined in accordance with subsections (12) and (13) of this rule, unless the U.S. Secretary of Education has arranged for services to those students under the by-pass provisions in 34 C.F.R. §§300.190 through 300.198.

(a) Services plan for parentally-placed private school students with disabilities. In accordance with subsections (12) and (13) of this rule, a services plan must be developed and implemented for each private school student



with a disability who has been designated by the school district in which the private school is located to receive special education and related services under this rule.

(b) Record keeping. Each school district must maintain in its records, and provide to the Department of Education, the following information related to parentally-placed private school students covered under this rule:

1. The number of students evaluated;
2. The number of students determined to be students with disabilities; and
3. The number of students served.

(5) Expenditures. To meet the requirements of this rule, each school district must spend the following on providing special education and related services (including direct services) to parentally-placed private school students with disabilities:

(a) For children and students aged three (3) through twenty-one (21), an amount that is the same proportion of the school district's total subgrant under Section 611(f) of the IDEA as the number of private school students with disabilities aged three (3) through twenty-one (21) who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, is to the total number of students with disabilities in its jurisdiction aged three (3) through twenty-one (21).

(b) For children aged three (3) through five (5), an amount that is the same proportion of the school district's total subgrant under Section 619(g) of the IDEA as the number of parentally-placed private school students with disabilities aged three (3) through five (5) who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district's jurisdiction, is to the total number of students with disabilities in its jurisdiction aged three (3) through five (5).

(c) Children aged three (3) through five (5) are considered to be parentally-placed private school students with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school under Florida law.

(d) If a school district has not expended for equitable services all of the funds described in paragraphs (5) (a) and (b) above by the end of the fiscal year for which Congress appropriated the funds, the school district must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school students with disabilities during a carry-over period of one additional year.

(6) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school students with disabilities, the school district, after timely and meaningful consultation with representatives of private schools, must conduct a thorough and complete child find process to determine the number of parentally-placed students with disabilities attending private schools located in the school district. (See Appendix B to the IDEA regulations for an example of how proportionate share is calculated).

(7) Annual count of the number of parentally-placed private school students with disabilities. Each school district must, after timely and meaningful consultation with representatives of parentally-placed private school students with disabilities (consistent with this rule), determine the number of parentally-placed private school students with disabilities attending private schools located in the school district and ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year. The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally-placed private school students with disabilities in the next fiscal year.

(8) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school students with disabilities under this rule.

(9) Consultation with private school representatives. To ensure timely and meaningful consultation, a school district must consult with private school representatives and representatives of parents of parentally-placed private school students with disabilities during the design and development of special education and related services for the students regarding the following:

(a) The child find process, including how parentally-placed private school students suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;

(b) The determination of the proportionate share of Federal funds available to serve parentally-placed private school students with disabilities, including the determination of how the proportionate share of those funds was calculated;

(c) The consultation process among the school district, private school officials, and representatives of parents of parentally-placed private school students with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed students with disabilities identified through the child find process can meaningfully participate in special education and related services;

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school students with disabilities, including a discussion of:

1. The types of services, including direct services and alternate service delivery mechanisms; and
2. How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school students; and
3. How and when those decisions will be made.

(e) How, if the school district disagrees with the views of private school officials on the provision of services or the types of services (whether provided directly or through a contract) the school district will provide to such private school officials a written explanation of the reasons why



the school district chose not to provide services directly or through a contract.

(10) Written affirmation. When timely and meaningful consultation, as required by subsection (9) of this rule has occurred, the school district must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the Department of Education.

(11) Compliance. A private school official has the right to submit a complaint to the Department of Education that the school district did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. If the private school official wishes to submit a complaint, the official must provide to the Department of Education the basis of the noncompliance by the school district with the applicable private school provisions in this rule and the school district must forward the appropriate documentation to the Department of Education. If the private school official is dissatisfied with the decision of the Department of Education, the official may submit a complaint to the U.S. Secretary of Education by providing the information on noncompliance, and the Department of Education must forward the appropriate documentation to the U.S. Secretary of Education.

(12) Equitable services determined. No parentally-placed private school student with a disability has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Decisions about the services that will be provided to parentally-placed private school students with disabilities under this rule must be made in accordance with this rule. The school district will make the final decisions with respect to the services to be provided to eligible parentally-placed private school students with disabilities.

(13) Services plan for each student served. If a student with a disability is enrolled in a religious or other private school by the student's parents and will receive special education or related services from a school district, the school district must initiate and conduct meetings to develop, review, and revise a services plan for the student and ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls. Each parentally-placed private school student with a disability who has been designated by the school district to receive services must have a services plan that describes the specific direct special education services that the school district will provide to the student in light of the services that the school district has determined it will make available to parentally-placed private school students with disabilities. The services plan must be developed, reviewed, and revised consistent with the requirements for IEP development, review and revision.

(14) Equitable services provided. The provision of equitable services must be by employees of the school district or through contract by the school district with an individual, association, agency, organization, or other entity. The services provided to parentally-placed private school students with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary and secondary school teachers who are providing equitable services to parentally-placed private school students with disabilities do not have to meet the highly qualified special education teacher requirements under Florida law. Parentally-placed private school students with disabilities may receive a different amount of services than students with disabilities in public schools. Special education and related services provided to parentally-placed private school students with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

(15) Location of services and transportation. Equitable services to parentally-placed private school students with disabilities may be, but are not required to be, provided on the premises of private, including religious, schools. If necessary for the student to benefit from or participate in the services provided under this rule, a parentally-placed private school student with a disability must be provided transportation from the student's school or the student's home to a site other than the private school and from the service site to the private school, or to the student's home, depending on the timing of the services. School districts are not required to provide transportation from the student's home to the private school. The cost of any transportation provided under this section may be included in calculating whether the school district has expended its proportionate share.

(16) Due process hearings and procedural safeguards. Except as provided herein, the procedures related to procedural safeguards, mediation and due process hearings do not apply to complaints that a school district has failed to meet the requirements of this rule, including the provision of services indicated on the student's services plan. However, such procedures do apply to complaints that a school district has failed to meet the requirements of this rule related to child find, including the requirements related to conducting appropriate evaluations of students with disabilities. Any request for due process hearing regarding the child find requirements must be filed with the school district in which the private school is located and a copy must be forwarded to the Department of Education.

(17) State complaints. Any complaint that a school district has failed to meet the requirements of this rule related to the provision of equitable services, services plans, expenditures, consultation with private school representatives, personnel, or equipment and supplies must be filed in accordance with the State Complaint procedures described in Rules 6A-6.03011 through 6A-6.0361, FAC. A complaint filed by a private school official under this section must be filed with the Department of Education in accordance with its State Complaint procedures as prescribed in subsection 6A-6.03311(5), FAC.

(18) Requirement that funds not benefit a private school. A school district may not use funds provided under the IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school. The school district must use funds provided under Part B of the IDEA to meet the special education and related services needs of parentally-placed private school students with disabilities, but not for the needs of a private school or the general needs of the students enrolled in the private school.

(19) Use of personnel. A school district may use funds available under the IDEA to make public school personnel available in other than public facilities to the extent necessary to provide equitable services under this rule for parentally-placed private school students with disabilities if those services are not normally provided by the private school. A school district may use funds available under the IDEA to pay for the services of an employee of a private school to provide equitable services under this rule if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control.

(20) Separate classes prohibited. A school district may not use funds available under the IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

(21) Property, equipment, and supplies. A school district must control and administer the funds used to provide special education and related services under this rule and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in this rule. The school district may place equipment and supplies in a private school for the period of time needed for the provision of equitable services. The school district must ensure that the equipment and supplies placed in a private school are used only for IDEA purposes and can be removed from the private school without remodeling the private school facility. The school district must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for IDEA purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than IDEA purposes. No funds under IDEA may be used for repairs, minor remodeling, or construction of private school facilities.

Specific Authority 1001.02(1)(2), (n), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57, 1011.62(1)(c), (e), 1001.03(8) FS. History-New 9-20-04, Amended 12-22-08.

#### **6A-6.03029 Development of Family Support Plans for Children with Disabilities Ages Birth Through Five Years.**

Parents are a child's first teachers and must be partners with school and school district personnel to identify their specific concerns and priorities of the family related to enhancing their child's development. Procedures for developing family support plans shall be set forth in each district's Policies and Procedures for the Provision

of Specially Designed Instruction and Related Services to Exceptional Students document consistent with the following requirements:

(1) Definitions. An individualized family support plan 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. A planning process involving the family, professionals, and others shall be used to prepare the document.

(2) Use of family support plans. For children with disabilities ages birth through two (2) years, a family support plan consistent with the requirements of Subsections (3), (4), (6), (8), and (9) of this rule shall be used. For children with disabilities ages three (3) through five (5) years, school districts may utilize, at the option of the school district and with written parental consent, a family support plan, consistent with the requirements of Subsections (3), (5), (7), and (9) of this rule, in lieu of an individual educational plan (IEP). Parents must be provided with a detailed explanation of the difference between a family support plan and an IEP.

(3) Contents. The family support plan shall be in writing and include:

(a) A statement of the child's present levels of physical development, (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on objective criteria;

(b) With the concurrence of the family, statement of the family's resources, priorities, and concerns related to enhancing the development of the family's child with disabilities.

(c) A statement of the major outcomes expected to be achieved by the child and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

(d) A statement of the specific early intervention services, or for children ages three (3) through five (5) years, the specially designed instruction and related services, necessary to meet the unique needs of the child and the family including the frequency, intensity, and the method of delivering services;

(e) A statement of the natural environments in which early intervention services, or for children ages three (3) through five (5) years, specially designed instruction and related services are to be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;

(f) The projected dates for initiation of services and the anticipated duration of such services; and

(g) The name of the service coordinator from the profession most immediately relevant to the child's or family's needs or the individual who is otherwise qualified to be responsible for the implementation of the plan and coordination with other agencies and persons. In meeting this requirement, the district may assign the same service coordinator who was appointed at the time that the child

was initially referred for evaluation to be responsible for implementing a child's and family's support plan or appoint a new service coordinator.

(h) Family support plans developed for children with disabilities ages birth through two (2) years shall also include:

1. The frequency, intensity, and method of delivery of the early intervention service;
2. The location of the early intervention services;
3. The payment arrangements, if any;
4. Other services to the extent appropriate;

5. The steps to be taken to support the transition of the child, upon reaching age three (3), to preschool services for children with disabilities ages three (3) through five (5), to the extent that those services are considered appropriate or other services that may be available, if appropriate. The steps required for transition shall include:

a. Discussions with an assistance to parent(s) regarding future placements and other matters related to the child's transition;

b. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and

c. With parental consent, the sharing of information about the child to the school district to ensure continuity of services, including evaluation and assessment information and copies of family support plans that have been developed and implemented.

(4) Timelines for family support plans for children with disabilities ages birth through two (2) years. These timelines shall include the following:

(a) For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial family support plan must be conducted within forty-five (45) days from referral;

(b) A review of the family support plan for a child and the child's family must be conducted every six (6) months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

1. The degree to which progress toward achieving the outcomes is being made; and

2. Whether modifications or revision of the outcomes or services is necessary.

3. The review may be carried out at a meeting or by another means that is acceptable to the parents and other participants.

(c) A meeting must be conducted on at least an annual basis to evaluate the family support plan for a child and the child's family, and as appropriate, to revise its provisions. The results of any current evaluations, and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

(d) Family support plan meetings must be conducted:

1. In settings and at times that are convenient to families; and

2. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(e) Meeting arrangements must be made with and written notice provided to the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(f) The contents of the family support plan must be fully explained to the parent(s) and informed written consent from the parent(s) must be obtained prior to the provisions of early intervention services described in the plan. If the parent(s) does not provide consent with respect to a particular early intervention service, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

(5) Requirements for family support plans for children with disabilities ages three (3) through five (5). These family support plans shall be consistent with the requirements of Rule 6A-6.03028(3)-(6), (10), and (11), FAC.

(6) Participants for family support plans for children with disabilities ages birth through two (2) years. The participants shall include the following:

(a) Each initial meeting and each annual meeting to evaluate the family support plan must include the following participants:

1. The parent or parents of the child;

2. Other family members, as requested by the parent(s) if feasible to do so;

3. An advocate or person outside of the family, if the parent(s) requests that the person participate;

4. The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated to be responsible for implementation of the family support plan;

5. For initial family support plan meetings, at least two professionals from two different disciplines directly involved in conducting the evaluations and assessments. For subsequent family support plan meetings, at least two professionals from two different disciplines; and

6. As appropriate, persons who will be providing services to the child or family.

(b) If a person listed in paragraph (6)(a) of this rule is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including:

1. Participating in a telephone conference call;

2. Having a knowledgeable authorized representative attend the meeting; or

3. Making pertinent records available at the meeting.

(c) Each periodic review must provide for the participation of persons in subparagraphs (6)(a)1.-4. of this rule. If conditions warrant, provisions must be made for the participation of other representatives.

(7) Participants for family support plan meetings for children with disabilities ages three (3) through five (5) years shall include those listed in Rule 6A-6.03028(4), FAC.

(8) Provision of services before evaluation and assessments are completed. Early intervention services for a child with disabilities ages birth through two (2) years and the child's family may commence before the completion of the evaluation and assessments if the following conditions are met:

- (a) Parental consent is obtained;
- (b) An interim family support plan is developed that includes:

1. The name of the service coordinator who will be responsible, consistent with paragraph (3)(g) of this rule, for implementation of the interim family support plan and coordination with other agencies and persons; and

2. The early intervention services that have been determined to be needed immediately by the child and the child's family; and

- (c) The evaluation and assessments are completed within the time period required in paragraph (4)(a) of this rule.

(9) Nonpublic schools. For children with disabilities ages birth through five (5), the procedures described in Rule 6A-6.03028 (12), FAC., shall be followed.

(10) Financial responsibility. For children ages birth through two (2) years, the school district shall only be responsible for the early intervention services specified and agreed to through the family support plan process. For children ages three (3) through five (5) years, the school district shall only be responsible for the provision of the special education and related services necessary for the child to benefit from special education.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5) FS. Law Implemented 1001.42(4), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5), 1011.62(1)(c), 1001.03(8), FS. History - New 7-13-93, Amended 1-4-94, 9-20-04.

c.f. P.L. 105-17 (20 USC 1436)

#### **6A-6.03030 Exceptional Student Education Eligibility for Infants or Toddlers Birth Through Two Years Old who have Established Conditions.**

(1) Definition. An infant or toddler with an established condition is defined as a child from birth through two (2) years of age with a diagnosed physical or mental condition known to have a high probability of resulting in developmental delay. Such conditions shall include genetic and metabolic disorders, neurological disorders a severe attachment disorder, an autism spectrum disorder, a sensory impairment (vision or hearing), or the infant's birth weight was less than 1,200 grams.

(2) Criteria for eligibility. An infant or toddler with an established condition is eligible for exceptional student education when a team of qualified professionals and the parent or guardian in accordance with subsection 6A-6.0331(6), F.A.C., determine that all the following criteria are met:

- (a) The infant or toddler is below the age of thirty-six (36) months;

- (b) The requirements of subsection 6A-6.0331(2), F.A.C., have been met; and

- (c) There is written evidence that the Department of Health, Children's Medical Services, Part C Local Early Steps has determined that the infant or toddler has an established condition as defined in subsection (1) of this rule; and,

- (d) The infant or toddler needs early intervention

services as defined in paragraph 6A-6.03411(1)(i), F.A.C.

(3) Continued eligibility. Continued eligibility for exceptional student education shall be determined before the child's third birthday in accordance with Rule 6A-6.03026, F.A.C.

Rulemaking Authority 1001.02, 1003.01, 1003.21, 1003.57 FS. Law Implemented 1003.01, 1003.21, 1003.57 FS. History-New 11-29-93, Amended 4-4-13.

#### **6A-6.03031 Exceptional Student Education Eligibility for Infants and Toddlers Birth Through Two Years Old who are Developmentally Delayed.**

(1) Definition. An infant or toddler who is developmentally delayed is defined as a child from birth through two years of age who has a delay in one (1) or more of the following developmental domains:

- (a) Adaptive development;
- (b) Cognitive development;
- (c) Communication development;
- (d) Social or emotional development;
- (e) Physical development;

(2) Criteria for eligibility. An infant or toddler with a developmental delay is eligible for exceptional student education when a team of qualified professionals and the parent or guardian in accordance with subsection 6A-6.0331(6), F.A.C., determine that all the following criteria are met:

- (a) The child is below the age of thirty-six (36) months;

- (b) There is documentation of one of the following:

1. A score of 1.5 standard deviations below the mean in two (2) or more developmental domains as measured by at least one (1) appropriate diagnostic instrument and procedures, and informed clinical opinion; or

2. A score of 2.0 standard deviations below the mean in one (1) developmental domain as measured by at least one (1) appropriate diagnostic instrument and procedures, and informed clinical opinion; or

3. Based on informed clinical opinion a determination has been made that a developmental delay exists.

- (c) The requirements of subsection 6A-6.0331(2), F.A.C., have been met; and

- (d) There is written evidence that the Department of Health, Children's Medical Services, Part C Local Early Steps has determined that the infant or toddler has a developmental delay as defined in paragraph (2)(b) of this rule; and

- (e) The infant or toddler needs early intervention services as defined in paragraph 6A-6.03411(1)(i), F.A.C.

(3) Continued eligibility. Continued eligibility for exceptional student education shall be determined before the child's third birthday in accordance with Rule 6A-6.03026, F.A.C.

Rulemaking Authority 1001.02, 1003.01, 1003.21, 1003.57 FS. Law Implemented 1003.01, 1003.21 FS. History-New 11-29-93, Amended 4-4-13.

#### **6A-6.03032 Procedural Safeguards for Children with**



### **Disabilities Ages Birth through Two Years.**

Providing parents with information regarding their rights under this rule is critical to ensuring that their specific concerns and the priorities of the family related to enhancing their child's development are addressed. The establishment and maintenance of policies and procedures to ensure that children with disabilities, ages birth through two years, and their parents are provided with procedural safeguards is required in order for school boards to receive state funds for the provision of these services. The school board's policy and procedures for procedural safeguards shall be set forth in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students document and shall include adequate provisions for the following:

(1) Prior notice. Parents shall be provided prior written notice a reasonable time before a school district proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.

(2) Content of notice. The content of the notice must be in sufficient detail to inform the parents about:

(a) The full explanation of all the procedural safeguards available to the parents as provided in this rule and Section 1003.57(5), Florida Statutes.

(b) The description of the action proposed or refused by the district and the reasons for taking the action.

(c) The state complaint procedures, including how to file a complaint with the Department of Health, Children's Medical Services, the lead agency for this program, and the timelines under those procedures.

(3) Native language.

(a) The notice described in subsection (2) of this rule must be:

1. Written in language understandable to the general public.
2. Provided in the native language of the parents, unless it is clearly not feasible to do so.

(b) If the native language or other mode of communication of the parents is not a written language, the school district shall take steps to ensure that:

1. The notice is translated orally or by other means to the parents in the parents' native language or other mode of communication;

2. The parents understand the notice, and;

3. There is written evidence that the requirements of subsection (3) of this rule have been met.

(c) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent, (such as sign language, Braille, or oral communication).

(4) Parent consent.

(a) Written parental consent must be obtained before:

1. Conducting the initial evaluation and assessment of a child; and
2. Initiating the provision of early intervention services.

(b) If consent is not given, the school district shall make reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
2. Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

(5) Examination of records. The procedures described in paragraphs (4)(a)-(c) of Rule 6A-6.03311, FAC., shall be followed.

(6) Mediation. Parents shall be provided the opportunity to resolve disputes involving their child through mediation in accordance with procedures established by the Department of Health, Children's Medical Services, the lead agency for this program.

(7) Due process hearings. The procedures described in subsection (11) of Rule 6A-6.03311, FAC., shall be followed with the exception that the school district may not initiate a hearing to challenge the parents' decision regarding the placement or the provision of early intervention services for their child.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.21(1)(e), 1003.57(5) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a)(b), 1003.57(5), 1003.21(1)(e), 1001.03(8), 1011.62(1)(c) FS. History - New 1-4-94, Amended 9-20-04.

c.f. P.L. 105-17, 20 USC 1439

### **6A-6.0311 Eligible Special Programs for Exceptional Students.**

Special programs for exceptional students encompass instruction and related services which provide significant adaptations in one or more of the following: curriculum, methodology, materials, equipment, or environment designed to meet the individual learning needs of exceptional students.

(1) Continuum of placements. Special programs shall be organized so that an exceptional student shall receive instruction in one or more of the following ways:

(a) Supplementary consultation or related services. Supplementary consultation or related services is the provision of assistance to school staff in basic, vocational or exceptional classes.

(b) Resource room. Resource room special instruction is supplemental instruction to exceptional students who receive their major educational program in other basic, vocational or exceptional classes.

(c) Special class. Special class is the provision of instruction to exceptional students who receive the major portion of their educational program in special classes located in a regular school.

(d) Special day school. A special day school is a school which is administratively separate from regular schools and is organized to serve one or more types of exceptional students.

(e) Residential school. A residential school is a special school which in addition to providing special education and related services, provides room and board.

(f) Special class in a hospital or facility operated by a noneducational agency.

(g) Individual instruction in a hospital or home.



(h) In addition, districts may provide supplementary instructional personnel to public or nonpublic preschool or day care programs for the instruction of pre-kindergarten exceptional students.

(2) Varying exceptionalities. A varying exceptionalities class is a setting which may provide for assignment of students of more than one (1) exceptionality to one (1) teacher per instructional class period, or more than one (1) exceptionality to one (1) teacher during a school week.

(a) If a school district establishes varying exceptionalities classes, procedures for this program shall be set forth in Special Programs and Procedures for Exceptional Students as required by Rule 6A-6.03411, FAC.

(b) Eligible exceptional students served in varying exceptionalities classes shall be reported for full-time equivalent membership in accordance with Rule 6A-1.0451(7)(8), FAC.

(3) Written agreements for out-of-district placements.

(a) When multi-district programs are established, school districts shall develop a written agreement approved by all participating school boards, which includes but is not limited to:

1. Designating responsibilities for the implementation of Special Programs and Procedures for Exceptional Students, pursuant to Rule 6A-6.03411, FAC.;

2. Providing transportation;

3. Providing program and staff supervision;

4. Funding programs; and

5. Dissolving the agreement.

(b) When a district provides a special program for exceptional students by assigning instructional personnel to a facility operated by another agency or organization, a written agreement shall be developed outlining the respective duties and responsibilities of each party. The written agreement shall include information requirements as in paragraph (3)(a) of this rule.

(c) Prior to reporting full-time equivalent membership for students in a program as in paragraphs (3)(a) and (b) of this rule, the school districts shall have in effect a written agreement which has been identified pursuant to Rule 6A-6.03411(4)(a), FAC.

Specific Authority 229.053(1), 230.23(4)(j)(m) FS. Law Implemented 230.23(4)(j)(m) FS. History - New 6-17-74, Repromulgated 12-5-74, Amended 7-25-83, Formerly 6A-6.311, Amended 10-3-91, 3-6-96.

#### **6A-6.0312 Course Modifications for Exceptional Students.**

School boards shall modify basic courses, as necessary, to assure exceptional students the opportunity to meet the graduation requirements for a standard diploma. School boards shall modify vocational courses and programs of study, as necessary, to assure handicapped students the opportunity to meet graduation requirements for a standard or a special diploma.

(1) Modifications to basic courses shall not include modifications to the curriculum frameworks or student performance standards. When modifying vocational courses, the particular outcomes and student performance standards which a student must master to earn credit must be speci-

fied on the student's individual educational plan.

(2) Modifications to basic or vocational courses may include any of the following:

(a) The instructional time may be increased or decreased.

(b) Instructional methodology may be varied.

(c) Special communications systems may be used by the teacher or the student.

(d) Classroom and district test administration procedures and other evaluation procedures may be modified as specified in Rule 6A-1.0943, FAC., to accommodate the student's handicap.

(3) When modifying basic courses, the school board shall use one of the following strategies:

(a) Assignment of the exceptional student to an exceptional education class for instruction in a basic course with the same student performance standards as those required of nonexceptional students in the district pupil progression plan, or

(b) Assignment of the exceptional student to a basic education class for instruction which is modified to accommodate the student's exceptionality.

(4) The district shall determine which of these strategies to employ based on an assessment of the student's needs and shall reflect this decision in the student's individual educational plan.

(5) Exceptional students enrolled in basic courses utilizing the strategy described in Rule 6A-6.0312(3)(a), FAC., shall be counted at exceptional student special program cost factors only if the class is being taught in a special program for exceptional students, by a qualified teacher in accordance with Rule 6A-1.0503, FAC.

(6) The school board's provisions for course modifications shall be incorporated in the district's pupil progression plan.

Specific Authority 229.053(1), 230.23(4)(m), 236.081(1)(c) FS. Law Implemented 232.246(5), 232.247 FS. History - New 4-30-85, Formerly 6A-6.312, Amended 4-23-87.

#### **6A-6.0331 General Education Intervention Procedures, Evaluation, Determination of Eligibility, Reevaluation and the Provision of Exceptional Student Education Services.**

The state's goal is to provide full educational opportunity and a free appropriate public education (FAPE) to all students with disabilities ages three (3) through twenty-one (21) and to students who are gifted in grades kindergarten through 12. School districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. They must ensure that all students with disabilities or who are gifted and who are in need of exceptional student education (ESE) as defined in paragraph (1)(n) of Rule 6A-6.03411, F.A.C., are identified, located, and evaluated, and FAPE is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011, 6A-6.03012, 6A-6.030121, 6A-6.03013, 6A-6.03014, 6A-6.030151, 6A-6.030152, 6A-6.030153, 6A-6.03016, 6A-6.03018, 6A-6.03019,

6A-6.03020, 6A-6.03022, 6A-6.03023, 6A-6.03026(1)(b), and 6A-6.03027, F.A.C. ESE includes specially designed instruction as defined in paragraph (1)(jj) of Rule 6A-6.03411, F.A.C.; special education as defined in paragraph (1)(kk) of Rule 6A-6.03411, F.A.C.; and related services as defined in paragraph (1)(dd) of Rule 6A-6.03411, F.A.C. These requirements apply to all students, including those who are homeless or are wards of the state or who attend private schools, regardless of the severity of their disability. Additionally, school districts may elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Steps Program. The procedures and criteria for general education interventions, identification, evaluation, and determination of eligibility of students with disabilities and gifted students by school districts shall be set forth in the school district's ESE Policies and Procedures document consistent with the following requirements.

(1) General education intervention procedures for kindergarten through grade twelve (12) students suspected of having a disability who are enrolled in public schools. It is the local school district's responsibility to develop and implement a multi-tiered system of support which integrates a continuum of academic and behavioral interventions for students who need additional support to succeed in the general education environment. In implementing a data-based problem solving process designed to develop, implement and evaluate a coordinated continuum of evidence-based instruction and intervention practices, a school district may carry out problem solving activities that include the provision of educational and behavioral evaluations, services, and supports, including evidence-based literacy instruction and professional development for teachers and other school staff to enable them to deliver scientifically based academic and behavioral interventions and, where appropriate, instruction on the use of adaptive and instructional technology. The general education intervention requirements set forth in paragraphs (a) through (e) of this paragraph are not required of students suspected of being gifted or who are being considered for eligibility in accordance with Rule 6A-6.03020, F.A.C., for special education and related services for students who are homebound or hospitalized. The general education interventions requirements set forth in paragraphs (a), (b), and (e) of this subsection may not be required for students suspected of having a disability if a team that comprises qualified professionals and the parent determines that these general education interventions are not appropriate for a student who demonstrates a speech disorder or severe cognitive, physical or sensory disorders, or severe social/behavioral deficits that require immediate intensive intervention to prevent harm to the student or others.

(a) Parent involvement in general education intervention procedures. Opportunities for parents to be involved in a data-based problem solving process to address the student's areas of concern must be made available. In addition, there must be discussion with the parent regarding the data used to identify the problem and monitor student progress, the student's response to instruction

and interventions, modification of the interventions, and anticipated future action to address the student's learning and/or behavioral needs. Documentation of parental involvement and communication must be maintained.

(b) Observations of the student must be conducted in the educational environment and, as appropriate, other settings to document the student's learning or behavioral areas of concern. At least one (1) observation must include an observation of the student's performance in the general classroom.

(c) Review of existing data, including anecdotal, social, psychological, medical, and achievement (including classroom, district and state assessments) shall be conducted. Attendance data shall be reviewed and used as one indicator of a student's access to instruction.

(d) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits that may interfere with the student's academic and behavioral progress, and additional screenings or assessments to assist in determining interventions may be conducted, as appropriate. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(e) Evidence-based interventions addressing the identified areas of concern must be implemented in the general education environment. The interventions selected for implementation should be developed by a team through a data-based problem solving process that uses student performance data to identify and analyze the area(s) of concern, select and implement interventions, and monitor the effectiveness of the interventions. Interventions shall be implemented as designed for a period of time sufficient to determine effectiveness, and with a level of intensity that matches the student's needs. 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, which may include, but is not limited to, graphic representation.

(f) Nothing in this section should be construed to either limit or create a right to FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C., or to delay appropriate evaluation of a student suspected of having a disability.

(g) A school district may not use more than fifteen (15) percent of the amount it receives under Part B of the IDEA for any fiscal year to develop and implement a coordinated continuum of evidence-based general education interventions for students in kindergarten through grade twelve (12) who are not currently identified as needing special education and related services but who need additional support to succeed in the general education environment. Funds made available to carry out this paragraph may be used to carry out general education intervention procedures aligned with activities funded by and carried out under the Elementary and Secondary Education Act (ESEA), if those funds are used to supplement, and not supplant, funds made available under the ESEA

for the activities and services assisted under this paragraph. For IDEA Part B funds used in this way, the school district must annually report to the Florida Department of Education on the number of students served under this paragraph who received general education interventions and the number of students who received such services and subsequently receive special education and related services under Part B of the IDEA during the preceding two (2) year period.

(2) Procedures prior to initial evaluation for prekindergarten children. For children who are below mandatory school attendance age and who are not yet enrolled in kindergarten, the activities specified in subsection (1) of this rule are not required. The following requirements apply to this population:

(a) Existing social, psychological, and medical data shall be reviewed, with referral for a health screening when the need is indicated; and

(b) Vision and hearing screenings shall be conducted for the purpose of ruling out sensory deficits. Additional screenings to assist in determining interventions may be conducted as appropriate.

(3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a kindergarten through grade 12 student or child age three (3) to kindergarten entry age, or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability. Either a parent of a kindergarten through grade 12 student or a school district may initiate a request for initial evaluation to determine if a student is gifted.

(a) The school district must seek consent from the parent or guardian to conduct an evaluation whenever the district suspects that a kindergarten through grade 12 student, or a child age three (3) to kindergarten entry age, is a student with a disability and needs special education and related services. Circumstances which would indicate that a student may be a student with a disability who needs special education and related services include, but are not limited to, the following:

1. When the kindergarten through grade 12 student's response to intervention data indicate that intensive interventions implemented in accordance with subsection (1) of this rule are effective but require a level of intensity and resources to sustain growth or performance that is beyond that which is accessible through general education resources; or

2. When the kindergarten through grade 12 student's response to interventions implemented in accordance with subsection (1) of this rule indicates that the student does not make adequate growth given effective core instruction and intensive, individualized, evidence-based interventions; or

3. When a parent requests an evaluation and there is documentation or evidence that the kindergarten through grade 12 student or child age three (3) to kindergarten entry age may be a student with a disability and needs special education and related services.

(b) Within twenty (20) school days of a school-based

team's determination that a circumstance described in subparagraphs (3)(a)1., or (3)(a) 2., of this rule exists for a student in grades kindergarten through grade 12, the school district must request consent from the parent to conduct an evaluation, unless the parent and the school agree otherwise in writing.

(c) As described in subparagraph (3)(a)3. of this rule, if a parent requests that the school conduct an evaluation to determine the kindergarten through grade 12 student's or child's age three (3) to kindergarten entry age eligibility for special education and related services as a student with a disability, the school district must within twenty (20) school days, unless the parent and the school agree otherwise in writing:

1. Obtain consent for the evaluation; or

2. Provide the parent with written notice in accordance with Rule 6A-6.03311, F.A.C., explaining its refusal to conduct the evaluation.

(d) Prior to a school district request for initial evaluation of a student in grades K through 12 suspected of having a disability, school personnel must make one (1) of the following determinations and include appropriate documentation in the student's educational record to the effect that:

1. The general education intervention procedures have been implemented as required under this rule and the data indicate that the student may be a student with a disability who needs special education and related services;

2. The evaluation was initiated at parent request and the activities described in subsection (1) of this rule will be completed concurrently with the evaluation but prior to the determination of the student's eligibility for special education and related services; or

3. The nature or severity of the student's areas of concern make the general education intervention procedures inappropriate in addressing the immediate needs of the student.

(e) The school district shall be responsible for conducting all initial evaluations necessary to determine if the student is eligible for ESE and to determine the educational needs of the student. Such evaluations must be conducted by examiners, including physicians, school psychologists, psychologists, speech-language pathologists, teachers, audiologists, and social workers who are qualified in the professional's field as evidenced by a valid license or certificate to practice such a profession in Florida. In circumstances where the student's medical care is provided by a physician licensed in another state, at the discretion of the school district administrator for exceptional student education, a report of a physician licensed in another state may be accepted for the purpose of evaluation and consideration of eligibility as a student with a disability. Educational evaluators not otherwise covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, F.A.C.

1. Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in

accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, F.S.

2. Standardized assessment of adaptive behavior shall include parental input regarding their student's adaptive behavior.

(f) The school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) as defined in paragraph 6A-6.03411(1)(h), F.A.C., that the student is in attendance after the school district's receipt of parental consent for the evaluation. For prekindergarten children, initial evaluations must be completed within sixty (60) school days after the school district's receipt of parental consent for evaluation.

(g) The sixty (60)-day timeframe for evaluation does not apply to a school district if:

1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation; or

2. A student enrolls in a school served by the school district after the timeframe has begun, and prior to a determination by the student's previous school district as to whether the student is a student with a disability. This exception applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed. Assessments of students with disabilities who transfer from one school district to another school district in the same school year must be coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(h) The school district shall ensure that students suspected of being gifted are evaluated within a reasonable period of time as specified in the district's ESE Policies and Procedures Document as defined in subsection 6A-6.03411(2), F.A.C., but no more than ninety (90) school days that the student is in attendance after the school district's receipt of parental consent for the evaluation.

(4) Parental consent for initial evaluation.

(a) The school district must provide the parent written notice that describes any evaluation procedures the school district proposes to conduct. In addition, the school district proposing to conduct an initial evaluation to determine if a student is a student with a disability and needs special education and related services or is gifted and needs ESE must obtain informed consent from the parent of the student before conducting the evaluation.

(b) Parental consent for initial evaluation must not be construed as consent for initial provision of ESE.

(c) The school district must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability or is gifted.

(d) In the event that the parent fails to respond to the district's request to obtain informed written consent, the district must maintain documentation of attempts made to obtain consent.

(e) For initial evaluations only, if the child is a ward of the State and is not residing with the student's par-

ent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the student is a student with a disability if:

1. Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the student;

2. The rights of the parents of the student have been terminated in accordance with Chapter 39, Part X, F.S.; or

3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for initial evaluation has been given by an individual appointed by the judge to represent the student.

(f) If the parent of a student suspected of having a disability who is enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the school district may, but is not required to, pursue initial evaluation of the student by using the mediation or due process procedures contained in Rule 6A-6.03311, F.A.C. The school district does not violate its child find obligations if it declines to pursue the evaluation.

(g) A school district may not use a parent's refusal to consent to initial evaluation to deny the parent or the student any other service, benefit, or activity of the school district, except as provided by this rule.

(5) Evaluation procedures.

(a) In conducting an evaluation, the school district:

1. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student within a data-based problem solving process, including information about the student's response to evidence-based interventions as applicable, and information provided by the parent. This evaluation data may assist in determining whether the student is eligible for ESE and the content of the student's individual educational plan (IEP) or educational plan (EP), including information related to enabling the student with a disability to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), or for a gifted student's needs beyond the general curriculum;

2. Must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE and for determining an appropriate educational program for the student; and

3. Must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(b) Each school district must ensure that assessments and other evaluation materials and procedures used to assess a student are:

1. Selected and administered so as not to be discriminatory on a racial or cultural basis;

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally,



and functionally, unless it is clearly not feasible to do so;

3. Used for the purposes for which the assessments or measures are valid and reliable; and

4. Administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials and procedures shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments shall be selected and administered so as to best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's sensory, manual, or speaking skills, unless those are the factors the test purports to measure.

(e) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(f) A student shall be assessed in all areas related to a suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(g) An evaluation shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the suspected disability.

(6) Determination of eligibility for exceptional students.

(a) A group of qualified professionals determines whether the student is an exceptional student in accordance with this rule and the educational needs of the student. The parents of a student being considered for eligibility as a student with a disability shall be invited and encouraged to participate as equal members of the group. The school district must provide a copy of the evaluation report and the documentation of the determination of eligibility at no cost to the parent.

(b) In interpreting evaluation data for the purpose of determining if a student is an exceptional student and the educational needs of the student, each school district shall:

1. Draw upon data and information collected as part of a data-based problem solving process from a variety of sources, such as aptitude and achievement tests, the student's response to instruction and interventions implemented, parent input, student input as appropriate, teacher recommendations, and information about the student's physical condition, social or cultural background, and adaptive behavior;

2. Ensure that information obtained from all of these sources is documented and analyzed by the team as part of the problem solving process; and

3. Determine eligibility in accordance with the criteria and procedures specified in these rules.

(c) If a determination is made that a student has a disability and needs special education and related

services, an IEP shall be developed for the student in accordance with Rule 6A-6.03028, F.A.C. For children ages three (3) through five (5) years, an individual family support plan (IFSP) may be developed in lieu of an IEP in accordance with Rule 6A-6.03029, F.A.C.

(d) A student may not be determined eligible as a student with a disability if the determinant factor is:

1. Lack of appropriate instruction in reading, including the essential components of reading instruction, including explicit and systematic instruction in (a) phonemic awareness; (b) phonics; (c) vocabulary development; (d) reading fluency, including oral reading skills; and (e) reading comprehension strategies;

2. Lack of appropriate instruction in math; or

3. Limited English proficiency; and

4. The student does not otherwise meet the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(e) A student may not be denied eligibility as a student who is gifted if the determinant factor is limited English proficiency.

(f) For students identified as gifted, an EP in accordance with Rule 6A-6.030191, F.A.C., shall be developed.

(7) Reevaluation Requirements.

(a) A school district must ensure that a reevaluation of each student with a disability is conducted in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., if the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation or if the student's parent or teacher requests a reevaluation.

(b) A reevaluation may occur not more than once a year, unless the parent and the school district agree otherwise and must occur at least once every three (3) years, unless the parent and the school district agree that a reevaluation is unnecessary.

(c) Each school district must obtain informed parental consent prior to conducting any reevaluation of a student with a disability.

(d) If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override provisions of mediation or due process. The school district does not violate its child find, evaluation or reevaluation obligations if it declines to pursue the evaluation or reevaluation.

(e) The informed parental consent for reevaluation need not be obtained if the school district can demonstrate that it made reasonable efforts to obtain such consent and the student's parent has failed to respond.

(8) Additional requirements for evaluations and reevaluations. As part of an initial evaluation, if appropriate, and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must take the following actions:

(a) Review existing evaluation data on the student, including:

1. Evaluations and information provided by the student's parents;



2. Current classroom-based, local, or State assessments and classroom-based observations; and

3. Observations by teachers and related services providers.

(b) Identify, on the basis of that review and input from the student's parents, what additional data, if any, are needed to determine the following:

1. Whether the student is a student with a disability or, in case of a reevaluation of the student, whether the student continues to have a disability;

2. The educational needs of the student;

3. The present levels of academic achievement and related developmental needs of the student;

4. Whether the student needs special education and related services or, in the case of a reevaluation of the student, whether the student continues to need special education and related services; and

5. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum.

(c) The group conducting this review may do so without a meeting.

(d) The school district shall administer tests and other evaluation measures as may be needed to produce the data that is to be reviewed under this section.

(e) If the determination under this section is that no additional data are needed to determine whether the student continues to be a student with a disability and to determine the student's educational needs, the school district shall notify the student's parents of:

1. That determination and the reasons for the determination; and

2. The right of the parents to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs. The school district is not required to conduct the assessment unless requested to do so by the student's parents.

(f) Reevaluation is not required for a student before the termination of eligibility due to graduation with a standard diploma or exiting from school upon reaching the student's twenty-second (22nd) birthday. For a student whose eligibility terminates under these circumstances, a school district must provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's post-secondary goals.

(g) Parental consent is not required before reviewing existing data as part of an evaluation or reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(h) If a parent of a student who is home schooled or placed in private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to

a request to provide consent, the school district may not use the consent override provisions of mediation or due process and the school district is not required to consider the student eligible for services under Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(i) To meet the reasonable efforts requirements to obtain parental consent, the school district must document its attempts to obtain parental consent using procedures such as those used to obtain parental participation in meetings as described in subparagraph 6A-6.03028(3)(b)7., F.A.C.

(9) Parental Consent for the Initial Provision of Services.

(a) A school district responsible for making FAPE available to an exceptional student must obtain informed consent from the parent of the student before the initial provision of ESE to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of ESE to the student.

(c) If the parent of a student fails to respond or refuses to consent to the initial provision of ESE, the school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(d) If the parent of the student refuses consent to the initial provision of ESE, or the parent fails to respond to a request to provide consent for the initial provision of ESE, the school district will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the student with the ESE for which the school district requests consent. In addition, the school district is not required to convene an IEP or EP team meeting or develop an IEP or EP for the student for the ESE for which the school district requests such consent.

(e) If, at any time subsequent to the initial provision of ESE, the parent of a student revokes consent in writing for the continued provision of ESE, the school district may not continue to provide ESE to the student, but must provide prior written notice before ceasing the provision of ESE. The school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(f) If a parent of a student revokes consent in writing for the continued provision of ESE, the school district:

1. Will not be considered to be in violation of the requirement to make FAPE available to the student for its failure to provide the student with further ESE; and,

2. Is not required to convene an IEP or EP team meeting or develop an IEP or EP for the student for further provision of ESE.

(g) If a parent of a student with a disability revokes consent in writing for their child's receipt of ESE after the initial provision of ESE to the student, the school district is not required to amend the student's education records to remove any references to the student's receipt of ESE because of the revocation of consent.

(10) Parental Consent for Specific Actions.

(a) A school district may not proceed with the following actions included in a student's IEP without written informed consent of the parent unless the school district documents reasonable efforts to obtain the parent's consent and the student's parent has failed to respond, or the school district obtains approval through a due process hearing in accordance with subsection 6A-6.03311(9), F.A.C. To meet the reasonable efforts requirements to obtain parental consent the school district must document its attempts to obtain parental consent using procedures such as those used to obtain parental participation in meetings as described in subparagraph 6A-6.03028(3)(b)7., F.A.C.

Those actions requiring parental consent include:

1. Administration of an alternate assessment in accordance with Section 1008.22, F.S., and provision of instruction in the state standards access points curriculum; and,
2. Except for a change in placement as described in Section 1003.57(1)(h), F.S., placement of the student in an exceptional student education center as defined in paragraph 6A-1.099828(2)(b), F.A.C.

(b) The district shall obtain written parental consent for the actions described above on the Parental Consent Form - Instruction in the State Standards Access Points Curriculum and Florida Alternate Assessment Administration, Form 313181, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03383>) English, Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese, and Parental Consent Form - Student Placement in an Exceptional Education Center, Form 313182, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03384>) English, Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese, adopted by the Department of Education and incorporated by reference to become effective March 2014 and available at <http://www.fldoe.org/ese/> or may be obtained from the Department of Education, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Room 614, Tallahassee, FL 32399. Both forms were translated into Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

(c) At any time an IEP team meeting is to be convened for the purpose of reviewing or changing a student's IEP as it relates to any of the actions described above, the school district must provide written notice of the meeting to the parent at least ten (10) days before the meeting. The notice must indicate the purpose, time, and location of the meeting and who, by title or position, will attend the meeting. The meeting may be convened prior to the tenth (10th) day, if the parent consents upon receipt of the written notice described above.

(d) Within ten (10) school days of a parent indicating in writing on a consent form described in paragraph (b) of this subsection that they do not consent to an action described in paragraph (a) of this subsection, the district must either develop and implement a new placement or instruction and assessment procedures in accordance with a new IEP or must request a due process hearing in accordance with subsection 6A-6.03311(9), F.A.C. During the

pendency of a due process hearing or appellate proceeding regarding a due process complaint, the student must remain in the student's current educational assignment while awaiting the decision of the due process hearing or court proceeding, unless the parent and the district school board agree otherwise.

Rulemaking Authority 1001.02(1), (2)(n), 1003.57, 1003.571, 1003.5715 FS. Law Implemented 1003.01(3)(a), (b), 1003.57, 1003.571. 1003.5715 FS. History New 6-17-74, Repromulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A 6.331, Amended 7-13-93, 1-2-95, 9-20-04, 12-22-08, 12-15-09, 3-25-14.

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

Each school district must establish, maintain and implement procedural safeguards that meet the requirements of this rule.

(1) Prior written notice. The school district shall provide parents with written notice a reasonable time before proposing or refusing to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education (FAPE) to the student. Prior notice may be provided at any meeting where such proposal or refusal is made. Graduation from high school with a regular diploma constitutes a change in placement, requiring prior written notice.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication used by the parents, unless it is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated orally or by other means to the parents in their native language or other mode of communication;
2. That the parents understand the content of the notice; and
3. That there is written documentation that these requirements have been met.

(c) The notice to the parents shall include:

1. A description of the action proposed or refused by the school district;
2. An explanation of why the school district proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action;
4. A statement that the parents of a student with a disability have protection under the procedural safeguards of this rule and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the provisions of Rules 6A-6.03011 through 6A-6.0361, F.A.C.;
6. A description of other options that the individual education plan (IEP) team considered and the reasons why those options were rejected; and

7. A description of other factors that are relevant to the school district's proposal or refusal.

(2) Provision of Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions of this rule relating to:

1. Prior written notice;
2. Parental consent;
3. Access to education records;
4. The availability of mediation;

5. The opportunity to present and resolve complaints through the state complaint and due process hearing procedures, including the time period in which to file a complaint, the opportunity for the school district to resolve the complaint, and the difference between the request for due process procedures and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures pursuant to subsection 6A-6.03311(5), F.A.C.;

6. Independent educational evaluations;

7. Procedures for students who are subject to placement in an interim alternative educational setting;

8. Requirements for placement of students with disabilities in private school by their parents at public expense;

9. Due process hearings, including the student's placement during the pendency of any due process hearing request and requirements for disclosure of evaluation results and recommendations;

10. Civil actions, including the time period in which to file those actions; and

11. Attorney's fees.

(b) A copy of the procedural safeguards must be given to the parents of a student with a disability only one time a school year, except that a copy also must be given to the parents:

1. Upon initial referral or parent request for evaluation;
2. In accordance with the discipline procedures when a change in placement occurs;
3. Upon receipt of the first State complaint and upon receipt of the first request for a due process hearing in a school year;
4. Upon request by a parent; and

5. In accordance with the provisions of Section 1008.212, F.S., upon the school district superintendent's recommendation to the Commissioner of Education that an extraordinary exemption for a given state assessment be granted or denied.

(c) A school district may place a current copy of the procedural safeguards on its internet Web site, if a Web site exists.

(d) A parent of a student with a disability may elect to receive notices required by this rule by an electronic mail communication, if the school district makes that option available.

(e) The procedural safeguards must be provided in an understandable language as provided under subsection (1) of this rule.

(3) Parents' opportunity to inspect and review education records.

(a) The parents of a student with a disability shall be afforded an opportunity to inspect and review their student's educational records including all records related to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child in accordance with Rule 6A-1.0955, F.A.C., Section 1002.22, F.S., and 34 CFR §§ 300.613-625.

(b) 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.

(4) Mediation. The Department of Education shall provide parents of students with disabilities and school district personnel the opportunity to resolve disputes involving any matter related to a proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of FAPE to the student, including matters arising prior to the filing of a request for due process, through a mediation process. To promote the resolution of disputes, both parties should consider limiting the number of participants in a mediation session.

(a) Requirements. The mediation process must:

1. Be voluntary on the part of both parties;
2. Not be used to deny or delay a parent's right to a due process hearing under subsection (9) of this rule or any other rights under this rule;
3. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(b) The Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(c) If a mediator is not selected on a random or rotational basis from the list described in paragraph (4)(b) of this rule, both the parent and the school district must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(d) The Department of Education shall bear the cost of the mediation process described in subsection (4) of this rule.

(e) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to both the parent and the school district.

(f) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that:

1. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings;
2. Is signed by both the parent and a representative of the school district who had the authority to bind the district; and
3. Is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(g) Whether or not the dispute is resolved through mediation, discussions that occur during the mediation

process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any Federal court or State court.

(h) Impartiality of the Mediator. An individual who serves as a mediator:

1. May not be an employee of any school district or any state agency that is involved in the education or care of the student;
2. Must not have a personal or professional interest that conflicts with the person's objectivity; and.
3. Is not an employee of a school district or state agency solely because he or she is paid by the Department of Education to serve as a mediator.

(5) State complaint procedures. The Department of Education shall provide parents and other interested persons, including an organization or individual from another state, the opportunity to resolve any complaint that a school district has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or its implementing regulations, or a state requirement, regarding the education of students with disabilities through its state complaint procedures. The Department of Education shall disseminate its state complaint procedures, which may be accessed at <http://www.fldoe.org/ese/resolution.asp> to parents and other interested individuals, including the parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

(a) Within sixty (60) calendar days after a complaint is filed under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the school district with the opportunity to respond to the complaint, including, at a minimum:
  - a. A proposal to resolve the complaint, at the discretion of the school district; and
  - b. An opportunity for a parent who has filed a complaint and the school district to engage in mediation consistent with this rule.
4. Review all relevant information and make an independent determination as to whether the school district is violating a federal requirement regarding the education of students with disabilities;
5. Issue a written decision to the complainant that addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and
6. Extend the time limit established in paragraph (6) (a) of this rule only if exceptional circumstances exist with respect to a particular complaint or the parent and the school district involved agree to extend the time to engage in mediation pursuant to subsection (5) of this rule.

(b) Procedures for the effective implementation of the Department of Education's final decision, if needed,

include the following:

1. Technical assistance activities;
2. Negotiations;
3. Corrective actions to achieve compliance; and
4. Where the Department of Education has found a failure to provide appropriate services, the Department must address the failure to provide appropriate services, including corrective action appropriate to address the needs of the student (such as compensatory services or monetary reimbursement) and appropriate future provision of services for all students with disabilities.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in this rule.

2. If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding on that issue and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint which alleges that a school district has failed to implement a due process hearing decision.

(d) Filing a complaint. An organization or individual may file a signed written complaint and must forward a copy of the complaint to the school district serving the student at the same time the party files the complaint with the Department of Education. The complaint must include:

1. A statement that a school district has violated a requirement of Part B of the IDEA or its implementing regulations regarding the education of students with disabilities;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and
4. If alleging violations with regard to a specific student:
  - a. The name and address of the residence of the student;
  - b. The name of the school the student is attending;
  - c. In the case of a homeless student or youth, available contact information for the student, and the name of the school the student is attending;
  - d. A description of the nature of the problem of the student, including facts relating to the problem;
  - e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed; and
  - f. Alleged violations that occurred not more than one (1) year prior to the date that the complaint is received.
- (e) The Department of Education will develop a mod-



el form to assist parents and other parties in filing a state complaint. However, neither the Department of Education nor a school district may require the use of the model form. Parents, school districts, and other appropriate parties may use the appropriate model form or another form or other document, as long as the form or other document that is used meets, as appropriate, the content requirements in paragraph (5)(d) above.

(6) Independent educational evaluations.

(a) A parent of a student with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

(b) The parent of a student with a disability has the right to be provided, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and of the school district criteria applicable to independent educational evaluations.

(c) For purposes of this section, independent educational evaluation is defined to mean an evaluation conducted by a qualified evaluation specialist who is not an employee of the school district responsible for the education of the student in question.

(d) Public expense is defined to mean that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(e) Whenever an independent educational evaluation is conducted, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the evaluation specialist, shall be the same as the criteria used by the school district when it initiates an evaluation, to the extent that those criteria are consistent with the parent's right to an independent educational evaluation.

(f) The school district may not impose conditions or timelines for obtaining an independent educational evaluation at public expense other than those criteria described in this rule.

(g) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay either:

1. Ensure that an independent educational evaluation is provided at public expense; or

2. Initiate a due process hearing under this rule to show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school district's criteria. If the school district initiates a hearing and the final decision from the hearing is that the district's evaluation is appropriate, then the parent still has a right to an independent educational evaluation, but not at public expense.

(h) If a parent requests an independent educational evaluation, the school district may ask the parent to give a reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process

hearing to defend the school district's evaluation.

(i) A parent is entitled to only one (1) independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

(j) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the school district an evaluation obtained at private expense:

1. The school district shall consider the results of such evaluation in any decision regarding the provision of FAPE to the student, if it meets appropriate district criteria described in this rule; and

2. The results of such evaluation may be presented by any party as evidence at any due process hearing regarding that student.

(k) If an administrative law judge requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

(7) Placement of students with disabilities in private schools by their parents when the provision of FAPE is at issue.

(a) A school district is not required to pay for the costs of education, including special education and related services, of a student with a disability at a private school or facility if that school district has made FAPE available to the student and the parents elected to place the student in a private school or facility. However, the school district must include that student in the population whose needs are addressed consistent with Rule 6A-6.030281, F.A.C.

(b) Disagreements between a parent and a school district regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures described in this rule.

(c) If the parents of a student with a disability, who previously received special education and related services under the authority of a school district, enroll the student in a private preschool, elementary, or secondary school without the consent of or referral by the school district, a court or an administrative law judge may require the school district to reimburse the parents for the cost of that enrollment if the court or administrative law judge finds that the school district had not made FAPE available to the student in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the state standards that apply to education provided by the Department of Education and the school district.

(d) The cost of reimbursement described in paragraph (c) of this subsection may be reduced or denied if:

1. At the most recent IEP Team meeting that the parents attended prior to removal of the student from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the school district to provide FAPE to their student, including stating their concerns and their intent to enroll their stu-



dent in a private school at public expense or at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the school district of the information described herein;

2. Prior to the parents' removal of the child from the public school, the school district informed the parents, through the notice requirements described in this rule, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

3. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

4. Exception. Notwithstanding the notice requirement in subparagraph 1. of this paragraph, the cost of reimbursement must not be reduced or denied for failure to provide the notice if:

a. The school prevented the parent from providing the notice;

b. The parents had not received notice, pursuant to the procedural safeguards requirements, of the notice requirement in subparagraph 1. of this section; or

c. Compliance with subparagraph (d)1. would likely result in physical harm to the student; and

5. Notwithstanding the notice requirement in subparagraph (7)(d)1., of this rule, the cost of reimbursement may not, in the discretion of the court or a hearing officer, be reduced or denied for failure to provide this notice if:

a. The parent is not literate or cannot write in English; or

b. Compliance with subparagraph (7)(d)1. of this section would likely result in serious emotional harm to the student.

(8) Transfer of Parental Rights at the Age of Majority.

(a) When a student with a disability reaches the age of eighteen (18), (except for a student with a disability who has been determined incompetent under State law or who has had a guardian advocate appointed to make educational decisions as provided by Section 393.12, F.S.), the right to notice under this rule is retained as a shared right of the parent and the student.

(b) All other rights afforded to parents under Rules 6A-6.03011 through 6A-6.0361, F.A.C., transfer to the student.

(c) The school district shall notify the student and the parent of the transfer of rights, when the student attains the age of eighteen (18).

(d) For a student with a disability who has attained age eighteen (18) and is incarcerated in a juvenile justice facility or local correctional facility, all rights accorded to parents under this rule transfer to the student, including the right to notice as described in this rule. For students incarcerated in state correctional facilities, all rights accorded to parents under this rule transfer to the student, including notice, regardless of the age of the student.

(e) If a student with a disability has reached the age of majority and does not have the ability to provide informed consent with respect to his or her educational

program, procedures established by statute may be used by the parent to:

1. Have the student declared incompetent and the appropriate guardianship established in accordance with the provisions of Chapter 744, F.S.;

2. Be appointed to represent the educational interests of their student throughout the student's eligibility for FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C.; or

3. Have another appropriate individual appointed to represent the educational interests of the student throughout the student's eligibility for FAPE under Rules 6A-6.03011 through 6A-6.0361, F.A.C., if the parent is not available in accordance with Section 393.12, F.S.

(9) Due process Hearings and Resolution Sessions.

(a) A due process hearing request may be initiated by a parent or a school district as to matters related to the identification, evaluation, eligibility determination, or educational placement of a student or the provision of FAPE to the student. In addition, in accordance with Section 1008.212, F.S., in the event that a district school superintendent requests an extraordinary exemption from participation in a statewide standardized assessment and the Commissioner of Education denies such request, the parent may request an expedited due process hearing. In this event, the Department of Education must inform the parent of any free or low-cost legal services and other relevant services available. The Department of Education shall arrange a hearing on this matter with the Division of Administrative Hearings. The hearing must begin within twenty (20) school days following the receipt of the parent's request by the Department of Education. The administrative law judge (ALJ) must make a determination within ten (10) school days after the expedited hearing is completed.

(b) A due process hearing request must allege a violation that occurred not more than two (2) years before the date the parent or school district knew or should have known about the alleged action that forms the basis of the due process hearing request. This limitations period does not apply to a parent if the parent was prevented from filing a due process hearing request because of:

1. Specific misrepresentations by the school district that it had resolved the problem forming the basis of the due process hearing request; or

2. The school district's withholding of information from the parent that was required under Rules 6A-6.03011 through 6A-6.0361, F.A.C., to be provided to the parent.

(c) Information for parents. The school district must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or the parent or the school district files a due process hearing request.

(d) The due process hearing request. The school district must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process hearing request (which must remain confidential). The party filing a due process hearing request must forward a copy of the request by mail to the Florida Department of Education at 325 West Gaines

Street, Room 614, Tallahassee, Florida 32399 or via fax transmission to (850) 245-0953. A due process hearing request must contain the following:

1. The name of the student;
2. The address of the residence of the student;
3. The name of the school the student is attending;
4. In the case of a homeless student or youth, available contact information for the student and the name of the school the student is attending;
5. A description of the nature of the problem of the student relating to the proposed or refused initiation or change in the identification, evaluation, eligibility determination, placement or provision of FAPE to the student, including facts relating to the problem; and
6. A proposed resolution of the problem to the extent known and available to the party at the time, including any remedy authorized by the IDEA.

(e) A party may not have a hearing on a due process hearing request or engage in a resolution session, as described below, until the party, or the attorney representing the party, files a due process hearing request that meets the requirements of paragraph (d) of this subsection.

(f) The Department of Education will develop a model form to assist parents and school districts in filing a due process hearing request. However, neither the Department of Education nor a school district may require the use of the model form. Parents and school districts may use the appropriate model form or another form or other document, as long as the form or other document that is used meets, as appropriate, the content requirements in paragraph (d) of this subsection.

(g) A due process hearing request will be deemed sufficient unless the party receiving the due process hearing request notifies the administrative law judge (ALJ) and the other party in writing, within fifteen (15) days of receipt of the due process hearing request, that the receiving party believes the due process hearing request does not meet the requirements in paragraph (d) of this subsection. Within five (5) days of receipt of the notification of insufficiency, the ALJ must make a determination on the face of the due process hearing request of whether it meets the requirements of paragraph (d) of this subsection, and must immediately notify the parties in writing of that determination.

(h) A party may amend its due process hearing request only if the other party consents in writing to the amendment and is given the opportunity to resolve the due process hearing request through a resolution session held pursuant to paragraph (l) of this subsection or the ALJ grants permission, except that the ALJ may only grant permission to amend at any time not later than five (5) days before the due process hearing begins. If a party files an amended due process hearing request, the timelines for the resolution session in paragraph (l) of this subsection and the thirty (30) day time period to resolve the request as set forth in paragraph (o) of this subsection begin again with the filing of the amended due process hearing request.

(i) School district response to a due process hearing

request. If the school district has not sent a prior written notice under this rule, to the parent regarding the subject matter contained in the parent's due process hearing request, the school district must, within ten (10) days of receiving the due process hearing request, send to the parent a response that includes:

1. An explanation of why the school district proposed or refused to take the action raised in the due process hearing request;
2. A description of other options that the IEP team considered and the reasons why those options were rejected;

3. A description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; and

4. A description of the other factors relevant to the school district's proposed or refused action.

(j) A response by a school district under paragraph (i) of this subsection shall not be construed to preclude the school district from asserting that the parent's due process hearing request was insufficient, where appropriate.

(k) Other party response to a due process hearing request. Except as provided in paragraph (i) of this subsection, the party receiving a due process hearing request must, within ten (10) days of receiving the due process hearing request, send to the other party a response that specifically addresses the issues raised in the due process hearing request.

(l) Resolution session. Within fifteen (15) days of receiving notice of a parent's due process hearing request and prior to convening a due process hearing, the school district must convene a meeting with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process hearing request that:

1. Includes a representative of the school district who has decision-making authority on behalf of that district; and

2. May not include an attorney of the school district, unless the parent is accompanied by an attorney.

(m) The purpose of the resolution meeting is for the parents to discuss their due process hearing request and the facts that form the basis of the due process hearing request, so that the school district has the opportunity to resolve the dispute that is the basis for the due process hearing request. The resolution meeting need not be held if:

1. The parent and the school district agree in writing to waive the meeting; or

2. The parent and the school district agree to use the mediation process described in this rule.

(n) The parent and the school district determine the relevant members of the IEP team to attend the meeting.

(o) Resolution period. If the school district has not resolved the due process hearing request to the satisfaction of the parents within thirty (30) days of the receipt of the due process hearing request, the due process hearing may occur and, except as provided in paragraph (r) of this subsection, the forty-five (45)-day timeline for issuing a final decision begins at the expiration of this thirty (30)-

day period.

(p) Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of a parent filing a due process hearing request to participate in the resolution meeting will delay the thirty (30)-day resolution timeline and the forty-five (45)-day due process hearing timeline until the meeting is held. If the school district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the school district may, at the conclusion of the thirty (30)-day period, request that the ALJ dismiss the parent's due process hearing request.

(q) If the school district fails to hold the resolution meeting within fifteen (15) days of receiving notice of a parent's due process hearing request or fails to participate in the resolution meeting, the parent may seek the intervention of an ALJ to begin the due process hearing timeline.

(r) Adjustments to the thirty (30)-day resolution period. The forty-five (45)-day timeline for the due process hearing starts the day after one of the following events:

1. Both parties agree in writing to waive the resolution meeting;
2. After either the mediation or resolution meeting starts but before the end of the thirty (30)-day period, the parties agree in writing that no agreement is possible; or
3. If both parties agree in writing to continue the mediation at the end of the thirty (30)-day resolution period, but later, the parent or school district withdraws from the mediation process.

(s) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraph (l) of this subsection, the parties must execute a legally binding agreement that is:

1. Signed by both the parent and a representative of the school district who has the authority to bind the school district; and
2. Enforceable in any State court of competent jurisdiction or in a district court of the United States.

(t) Agreement review period. If the parties execute an agreement pursuant to paragraph(s) of this subsection, a party may void the agreement within three (3) business days of the agreement's execution.

(u) Should a hearing be required, it shall be conducted by an ALJ appointed as required by Section 120.65, F.S., from the Division of Administrative Hearings (DOAH), Department of Management Services, on behalf of the Department of Education. At a minimum, an ALJ must not be an employee of the Department of Education or the school district that is involved in the education or care of the student or have a personal or professional interest that conflicts with the person's objectivity in the hearing. In addition, an ALJ must possess knowledge of, and the ability to understand, the provisions of the IDEA, federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts; must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal

practice; and must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. A person who otherwise qualifies to conduct a hearing under this paragraph is not an employee of the agency solely because he or she is paid by the agency to serve as an ALJ. The Florida Department of Education will keep a list of the persons who serve as ALJs, which must include a statement of the qualifications of each of those persons.

(v) An ALJ shall use the provisions of Rules 6A-6.03011 through 6A-6.0361, F.A.C., for conducting due process hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, F.A.C. Minimum procedures for due process hearings shall include the following:

1. Hearing rights. Any party to a due process hearing has the right:

- a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, F.A.C., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students with disabilities, or any combination of the above;
- b. To present evidence, and to confront, cross-examine, and compel the attendance of witnesses;
- c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;
- d. To obtain written, or, at the option of the parents, electronic verbatim record of the hearing at no cost to the parents; and
- e. To obtain written, or, at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

a. At least five (5) business days prior to a hearing conducted pursuant to this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An ALJ may bar any party that fails to comply with sub-subparagraph (9)(v)2.a. of this rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

3. Additional parental rights at hearings. In addition to the rights already identified in this rule, parents involved in hearings must be given the right to:

- a. Have their student who is the subject of the hearing present;
- b. Open the hearing to the public; and
- c. Have the record of the hearing and the findings of fact and decisions described above provided at no cost to the parents.

4. Hearing decisions. An ALJ's determination of whether a student received FAPE must be based on substantive grounds. In matters alleging a procedural violation, an ALJ may find that a student did not receive FAPE only if the procedural inadequacies impeded the student's right to FAPE; significantly impeded the par-

ent's opportunity to participate in the decision-making process regarding the provision of FAPE to the student; or caused a deprivation of educational benefit. This shall not be construed to preclude an ALJ from ordering a school district to comply with the procedural safeguards set forth in Rules 6A-6.03011 through 6A-6.0361, F.A.C. In addition, nothing in Rules 6A-6.03011 through 6A-6.0361, F.A.C., shall be construed to preclude a parent from filing a separate request for due process on an issue separate from a request for due process already filed.

5. Findings and decision to advisory panel and general public. The state educational agency (SEA), after deleting any personally identifiable information, must transmit the findings and decisions of the ALJ to the State Advisory Committee for the Education of Exceptional Students and make those findings and decisions available to the public.

6. Timelines and convenience of hearings and reviews. The SEA must ensure that not later than forty-five (45) days after the expiration of the thirty (30) day period for resolution pursuant to paragraph (9)(o) of this rule, or the adjusted time period described in this rule, a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties. An ALJ may grant specific extensions of time beyond these time periods at the request of either party. Each hearing must be conducted at a time and place that is reasonably convenient to the parents and the student involved.

(w) Civil Action. A decision made in a due process hearing shall be final, unless, within ninety (90) days from the date of the decision of the ALJ, a party aggrieved by the decision brings a civil action in federal district or state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), F.S. The state circuit or federal district court shall receive the records of the administrative proceedings; hear additional evidence at the request of a party; and basing its decision on the preponderance of the evidence, grant the relief it determines appropriate. Nothing in this rule restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of students with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under the procedures safeguards available under the IDEA, the procedures related to due process hearings must be exhausted to the same extent as would be required had the action been brought under the IDEA.

(x) Attorneys' Fees.

1. In any due process hearing or subsequent judicial proceeding brought under this rule, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to:

a. The prevailing party who is the parent of a student with a disability;

b. To a prevailing party who is the Department of Education or school district against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate

after the litigation clearly became frivolous, unreasonable, or without foundation; or

c. To the prevailing Department of Education or school district against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

2. Prohibition on use of funds. Funds under Part B of the IDEA may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under this rule. However, this does not preclude a school district from using funds under Part B of the IDEA for conducting a due process hearing or subsequent judicial proceedings under the IDEA.

3. Award of fees. A court awards reasonable attorneys' fees under this paragraph consistent with the following:

a. Fees awarded must be based on rates prevailing in the community in which the due process hearing or judicial proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

b. Attorneys' fees may not be awarded and related costs may not be reimbursed in any due process hearing or judicial proceeding for services performed subsequent to the time of a written offer of settlement to a parent if the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing, at any time more than ten (10) days before the hearing begins; the offer is not accepted within ten (10) days; and the court or ALJ finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. An award of attorneys' fees and related costs may be made, however, to a parent who is the prevailing party and was substantially justified in rejecting the settlement offer.

c. Attorneys' fees may not be awarded relating to any meeting of the IEP team, unless the meeting is convened as a result of a due process hearing or judicial proceeding. For purposes of this section, a resolution session/meeting conducted pursuant to this rule is not considered a meeting convened as a result of a due process hearing or judicial proceeding or a due process hearing or judicial proceeding.

4. Except as provided in paragraph (e) of this subsection, the court reduces, accordingly, the amount of the attorneys' fees awarded, if the court finds that:

a. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

b. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

c. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

d. The attorney representing the parent did not pro-



vide to the school district the appropriate information in the due process request in accordance with this rule.

e. The provisions of subsection (4) of this subsection do not apply in any action or proceeding if the court finds that the Department of Education or the school district unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 1415 of the IDEA.

(y) Student's status during proceedings. Except as provided in Rule 6A-6.03312, F.A.C., which addresses discipline of students with disabilities, during the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the parent of the student and the school district agree otherwise, the student involved in the proceeding must remain in the then-current placement. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings. If the due process hearing involves an application for initial services under Rules 6A-6.03011 through 6A-6.0361, F.A.C., from a student who is transitioning from an IDEA Part C Early Intervention program to an IDEA Part B program and is no longer eligible for Part C services because the student has turned three (3), the school district is not required to provide the Part C services that the student had been receiving. If the student is found eligible for special education and related services under Part B and the parent consents to the initial provision of such services, then the school district must provide those special education and related services that are not in dispute between the parent and the school district. If the ALJ agrees with the parent that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of determining the stay-put placement for the student.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01(3), 1003.57, 1003.571, 1003.5715, 1008.212 FS. Law Implemented 1003.01(3), 1003.57, 1003.571, 1003.5715, 1008.212 FS. History-New 7-13-83, 12-20-83, 4-26-84, Formerly 6A-6.3311, Amended 7-17-90, 9-20-04, 12-22-08, 3-25-14.

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

For students with disabilities whose behavior impedes their learning or the learning of others, strategies, including positive behavioral interventions and supports to address that behavior must be considered in the development of their individual educational plans (IEPs). School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the requirements and procedures in this rule, is appropriate for a student with a disability who violates a code of student conduct.

(1) Definitions applicable to discipline of students with disabilities. For purposes of this rule, the following definitions apply:

(a) Change of placement because of disciplinary removals. For the purpose of removing a student with a

disability from the student's current educational placement as specified in the student's IEP under this rule, a change of placement occurs when:

1. The removal is for more than ten (10) consecutive school days, or

2. The student has been subjected to a series of removals that constitutes a pattern that is a change of placement because the removals cumulate to more than ten (10) school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another. A school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement, and this determination is subject to review through due process and judicial proceedings.

(b) Controlled substance. A controlled substance is a drug or other substance identified under schedules I, II, III, IV, or V of the Controlled Substances Act, 21 U.S.C. 812(c) and Section 893.02(4), F.S.

(c) Illegal drug. An illegal drug means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 U.S.C. 812(c) or under any other provision of federal law.

(d) Serious bodily injury. Serious bodily injury means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) Weapon. Weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade that is less than two and one half (2 1/2) inches in length.

(f) Manifestation determination. A manifestation determination is a process by which the relationship between the student's disability and a specific behavior that may result in disciplinary action is examined.

(g) Interim alternative educational setting. An interim alternative educational setting (IAES) is a different location where educational services are provided for a specific time period due to disciplinary reasons and that meets the requirements of this rule.

(2) Authority of school personnel. Consistent with the school district's Code of Student Conduct and to the extent that removal would be applied to students without disabilities, school personnel may:

(a) Remove a student with a disability who violates a code of student conduct from the student's current placement for not more than ten (10) consecutive school days.

(b) Further remove a student with a disability for not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct, as long



as those removals do not constitute a change in placement as defined in this rule.

(3) Manifestation determination. A manifestation determination, consistent with the following requirements, must be made within ten (10) school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct.

(a) In conducting the review, the school district, the parent, and relevant members of the IEP Team (as determined by the parent and the school district) must:

1. Review all relevant information in the student's file, including any information supplied by the parents of the student, any teacher observations of the student, and the student's current IEP; and

2. Determine whether the conduct in question was caused by, or had a direct and substantial relationship to the student's disability or whether the conduct in question was the direct result of the school district's failure to implement the IEP.

(b) If the school district, the parent, and relevant members of the IEP Team determine that a condition in subparagraph (a)2. above was met, the conduct must be determined to be a manifestation of the student's disability and the school district must take immediate steps to remedy those deficiencies.

(c) If the school district, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the student's disability, the IEP Team must either:

1. Conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or

2. If a behavioral intervention plan already has been developed, review it and modify it, as necessary, to address the behavior; and

3. Except as provided in subsection (6) of this rule, return the student to the placement from which the student was removed, unless the parent and the school district agree to a change in placement as part of the modification of the behavior intervention plan.

(d) For disciplinary changes of placement, if the behavior that gave rise to the violation of a code of student conduct is determined not to be a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that services consistent with subsection (5) of this rule must be provided to the student with a disability.

(e) If a parent disagrees with the manifestation determination decision made by the IEP Team pursuant to this rule, the parent may appeal the decision by requesting an expedited due process hearing as described in subsection (7) of this rule.

(4) On the date on which a decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code

of student conduct, the school district must notify the parent of the removal decision and provide the parent with a copy of the notice of procedural safeguards as referenced in these rules.

(5) Free appropriate public education for students with disabilities who are suspended or expelled or placed in an IAES.

(a) A school district is not required to provide services to a student with a disability during removals totaling ten (10) school days or less in that school year, if services are not provided to students without disabilities who are similarly removed.

(b) Students with disabilities who are suspended or expelled from school or placed in an IAES must continue to receive educational services, including homework assignments in accordance with Section 1003.01, F.S., so as to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP and receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

(c) After a student with a disability has been removed from the current placement for ten (10) school days in the school year, if the current removal is not more than ten (10) consecutive school days and is not a change of placement under this rule, school personnel, in consultation with at least one of the student's special education teacher(s), shall determine the extent to which services are needed so as to enable the student to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

(d) If the removal is a change of placement under this rule, the student's IEP Team determines appropriate services under paragraph (b) of this subsection.

(6) Special Circumstances and Interim Alternative Educational Setting (IAES).

(a) School personnel may remove a student to an IAES for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries a weapon to or possesses a weapon at school, on school premises, or to a school function under the jurisdiction of a state education agency or a school district;

2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state education agency or a school district; or

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

(b) On the date on which a decision is made to make a removal that constitutes a change of placement because of a violation of a code of student conduct, the school district must notify the parent of that decision and pro-

vide the parent with a copy of the notice of procedural safeguards as referenced in Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(7) Appeal and Expedited Hearings.

(a) An expedited hearing may be requested:

1. By the student's parent if the parent disagrees with a manifestation determination or with any decision not made by an administrative law judge (ALJ) regarding a change of placement under this rule, or

2. By the school district if it believes that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

(b) The school district may repeat the procedures for expedited hearings if it believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

(c) Expedited due process hearings requested under this subsection shall be conducted by an ALJ for the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education, and shall be held at the request of either the parent or the school district regarding disciplinary actions. These hearings must meet the requirements prescribed in Rules 6A-6.03011 through 6A-6.0361, F.A.C., except that the hearing must occur within twenty (20) school days of the date the request for due process is filed and an ALJ must make a determination within ten (10) school days after the hearing. In addition, unless the parents and the school district agree in writing to waive the resolution meeting described herein or agree to use the mediation process set forth in these rules:

1. A resolution meeting must occur within seven (7) days of receiving notice of the request for expedited due process hearing; and

2. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the request for expedited due process hearing.

(d) The decision of the ALJ rendered in an expedited hearing may be appealed by bringing a civil action in a federal district or state circuit court, as provided in Section 1003.57(1), F.S.

(8) Authority of an ALJ. An ALJ hears and makes a determination regarding an appeal and request for expedited due process hearing under this subsection and, in making the determination:

(a) An ALJ may return the student with a disability to the placement from which the student was removed if the ALJ determines that the removal was a violation of this rule or that the student's behavior was a manifestation of the student's disability; or

(b) Order a change of placement of the student with a disability to an appropriate IAES for not more than forty-five (45) school days if the ALJ determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

(c) The procedures under this subsection may be repeated, if a school district believes that returning the student to the original placement is substantially likely to

result in injury to the student or to others.

(9) Student's Placement During Appeals/Expedited Due Process Proceedings. When an appeal under subsection (7) has been made by either the parent or the school district, the student must remain in the IAES determined by the IEP team pending the decision of the ALJ or until the expiration of the time period specified by school personnel, including expulsion for a student where no manifestation was found, unless the parent and the Department of Education or school district agree otherwise.

(10) Protections for Students not Determined Eligible for Special Education and Related Services. A regular education student who has engaged in behavior that violated a code of student conduct may assert any of the protections afforded to a student with a disability under this rule if the school district had knowledge of the student's disability before the behavior that precipitated the disciplinary action occurred.

(a) Basis of knowledge. A school district is deemed to have knowledge that a student is a student with a disability if:

1. The parent has expressed concern in writing to supervisory or administrative personnel of the appropriate school district, or a teacher of the student, that the student needs special education and related services;

2. The parent has requested an evaluation to determine whether the student is in need of special education and related services; or

3. The teacher of the student, or other school district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the school district's special education director or to other supervisory school district personnel.

(b) Exception. A school district would not be deemed to have knowledge of a disability under paragraph (a) if:

1. The parent of the student has not allowed an evaluation pursuant to Rules 6A-6.03011 through 6A-6.0361, F.A.C., or has refused special education and related services under Rules 6A-6.03011 through 6A-6.0361, F.A.C.; or

2. The school district conducted an evaluation in accordance with Rules 6A-6.03011 through 6A-6.0361, F.A.C., and determined that the student was not a student with a disability.

(c) Conditions that Apply if No Basis of Knowledge.

1. If the school district has no knowledge that the student is a student with a disability prior to disciplinary action, the student may be disciplined in the same manner as a student without a disability who engages in comparable behaviors.

2. If an evaluation request is made for the student during the time period of the disciplinary action, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the school district shall provide special edu-

cation and related services consistent with the requirements of this rule.

(11) Nothing in this rule prohibits a school district from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.

(12) Student Records in Disciplinary Procedures. School districts shall ensure that the special education and disciplinary records of students with disabilities are transmitted, consistent with the provisions of Section 1002.22, F.S., and Rule 6A-1.0955, F.A.C.:

(a) For consideration by the person making the final determination regarding the disciplinary action; and

(b) For consideration by the appropriate authorities to whom school districts report crimes.

(13) Disciplinary Records of Students with Disabilities. School districts shall include in the records of students with disabilities a statement of any current or previous disciplinary action that has been taken against the student and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled students.

(a) The statement may be a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals involved with the student.

(b) If the student transfers from one school to another, the transmission of any of the student's records must include both the student's current IEP and any statement of current or previous disciplinary action that has been taken against the student.

(14) Suspension and expulsion rates.

(a) The Florida Department of Education, will examine 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:

1. Among school districts in the state; or

2. Compared to the rates for non-disabled children within the school districts.

(b) If the discrepancies described in paragraph (a) of this subsection are occurring, the Department of Education will review and, if appropriate, revise (or require the affected school district to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the IDEA.

Rulemaking Authority 1001.02(1), (2)(n), 1003.31(3), 1003.571, 1006.09 FS. Law Implemented 1003.31(3), 1003.57, 1003.571, 1006.09 FS. History-New 9-20-04, Amended 12-22-08, 4-21-11.

#### **\*6A-6.03313 Procedural Safeguards for Exceptional Students who are Gifted.**

\* Please contact the Bureau of Exceptional Education and Student Services Resource and Information Center for the most recent version of the procedural safeguards for students identified as gifted.

Providing parents with information regarding their rights under this rule is critical to ensuring that they have the opportunity to be partners in the decisions regarding their children. It is also critical that local school boards provide information about these rights to appropriate district and school personnel so that the needs of the student can be identified and appropriately met. The school board's policy and procedures for procedural safeguards shall be set forth in accordance with Rule 6A-6.03411, FAC., and shall include adequate provisions for the following:

(1) Prior notice. The school district shall provide parents with prior written notice a reasonable time before any proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication commonly used by the parent unless such communication is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated to the parents orally or by other means in their native language or mode of communication;

2. That the parents understand the content of the notice; and

3. That there is written documentation that the requirements of subparagraphs (1)(b)1. and 2. of this rule have been met.

(c) The notice to the parents shall include:

1. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the district considered and the reasons why those options were rejected;

2. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

3. A description of any other factors that are relevant to the district's proposal or refusal; and

4. Information on how the parent can obtain a copy of the procedural safeguards specified in this rule.

(2) Content and Provision of the Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions included in this rule.

(b) A copy of the procedural safeguards must be available to the parents of a child who is gifted, and must be given to the parents, at a minimum:

1. Upon initial referral for evaluation;

2. Upon refusal of a parent's request to conduct an initial evaluation;

3. Upon notification of each EP meeting; and

4. Upon receipt of a request for a due process hearing by either the school district or the parent in accordance with subsection (7) of this rule.

(3) Informed parental consent.

(a) Parents shall be fully informed of all information relevant to the action for which consent is sought in their native language or other mode of communication unless such communication is clearly not feasible.

(b) Written parental consent shall be obtained prior to conducting an initial evaluation to determine eligibility and prior to initial provision of services to students who are gifted.

(c) School districts shall document the attempts to secure consent from the parent as required by paragraph (3)(b) of this rule.

(d) Parental consent is voluntary and may be revoked at any time before the action occurs.

(e) Except for formal, individual evaluation and the initial provision of services to the student, consent may not be required as a condition of any other benefit to the parent or child. Any proposal or refusal to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the student after the initial placement is not subject to parental consent but is subject to prior notice as defined by subsection (1) of this rule.

(f) Parental consent is not required before:

1. Reviewing existing data as part of an evaluation; or,
2. Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all children.

(4) Parents' opportunity to examine records and participate in meetings.

(a) The parents of students who are gifted shall be afforded, in accordance with Rule 6A-1.0955, FAC., Section 1002.22, Florida Statutes, and this rule, an opportunity to inspect and review their child's educational records.

(b) 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 including all records related to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(c) The parents of a student who is gifted must be afforded an opportunity to participate in meetings with respect to the development of their child's educational plan.

(5) Evaluations obtained at private expense. If the parent obtains an independent evaluation at private expense which meets the requirements of subsection (4) of Rule 6A-6.0331, FAC., the results of the evaluation must be considered by the school district in any decision made with the respect to the determination of eligibility for exceptional student education services.

(a) The results of such evaluation may be presented as evidence at any hearing authorized under subsection (7) of this rule.

(b) If an administrative law judge requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense, as defined in paragraph (7)(c) of Rule 6A-6.03411, FAC.

(6) State Complaint Procedures. The Department of Education shall provide parents and other interested persons the opportunity to resolve allegations that a school district has violated state requirements regarding the education of students who are gifted through the establishment of state complaint procedures.

(a) Within ninety (90) calendar days after a complaint is filed, under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that to be necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

3. Review all relevant information and make an independent determination as to whether the school district is violating a state requirement regarding the education of students who are gifted;

4. Issue a written decision on the complaint that addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and

5. Extend the time limit established in paragraph (6)(a) of this rule if exceptional circumstances exist with respect to a particular complaint.

(b) Procedures for the effective implementation of the Department of Education's final decision include the following:

1. Technical assistance activities;
2. Negotiations; and,
3. Corrective actions to achieve compliance.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to subsection (7) of this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in subsection (6) of this rule.

2. If an issue is raised in a complaint filed under this subsection that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint that alleges that a school district has failed to implement a due process hearing decision.

(7) Due process hearings. Due process hearings shall be available to parents of students who are gifted and to school districts to resolve matters related to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education.

(a) Such hearings may be initiated by a parent or a school district on the proposal or refusal to initiate or change the identification, evaluation, or educational



placement of the student or the provision of a free appropriate public education to the student.

(b) A hearing shall be conducted by an administrative law judge from the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education.

(c) An administrative law judge (ALJ) shall use subsection (7) of this rule for any such hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, FAC., as deemed appropriate by the ALJ including, but not limited to: the authority of a party to request a pre-hearing conference, the authority of the ALJ to issue subpoenas to compel the attendance of witnesses and the production of records, and the authority of the ALJ to issue summary rulings in absence of a disputed issue of material fact.

(d) Status of student during proceedings.

1. During the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the district and the parent of the student agree otherwise, the student involved in the proceeding must remain in the present educational assignment. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings.

2. If the administrative law judge agrees with the parent and finds that a change of placement is appropriate, that placement becomes the agreed-upon placement during the pendency of the appeal.

(e) Hearing rights for all parties.

1. Any party to a hearing conducted pursuant to subsection (7) of this rule has the right:

a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, FAC., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students who are gifted, or any combination of the above;

b. To present evidence, and to confront, cross-examine, and compel the attendance of witnesses;

c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;

d. To obtain written, or at the option of the parents, electronic, verbatim record of the hearing at no cost to the parents; and

e. To obtain written, or at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

a. At least five (5) business days prior to a hearing conducted pursuant to subsection (7) of this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An administrative law judge may bar any party that fails to comply with subparagraph (7)(e)2. of this rule

from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(f) Parental rights at hearings. Parents involved in hearings must be given, in addition to the rights described in paragraph (7)(e) of this rule, the right to:

1. Have their child who is the subject of the hearing present; and

2. Open the hearing to the public.

(g) Duties and responsibilities of the superintendent or designee shall include:

1. Implementing procedures that require the parent of a child who is gifted, or the attorney representing the child, to provide notice to the school district. The notice required, which must remain confidential, must include: the name of the child; the address of the residence of the child; the name of the school the child is attending; a description of the nature of the problem relating to the proposed or refused initiation or change, including facts relating to the problem; and, a proposed resolution of the problem to the extent known and available to the parents at the time. However, the school district may not deny or delay a parent's right to a due process hearing for failure to provide this notice.

2. Immediately forwarding the Division of Administrative Hearings by facsimile transmission of the parent's request for a hearing upon its receipt;

3. Notifying all parties regarding their rights and responsibilities before, during, and after the hearing. This notice should include information to the parent of any free or low cost legal and other relevant services, which are available, if the parent requests this information or if the parent or school district initiates a hearing.

4. Determining whether an interpreter is needed and arranging for the interpreter as required;

5. Complying with the administrative law judge's rulings regarding requests for and exchanges of evidence; discovery; the filing of motions and, scheduling, so as to meet the requirements of this rule, and the deadlines established herein.

6. Arranging for the provision and payment of clerical assistance, the hearing, use of facilities, and a verbatim transcript of the hearing;

7. Completing other responsibilities specified by the school board.

(h) Duties and responsibilities of the Department of Education shall include:

1. Maintaining a list of persons who serve as administrative law judges including a statement of the qualifications of each of these persons; and,

2. Maintaining an index of the final orders of such hearings and providing this information to the public upon request.

(i) Duties and responsibilities of an administrative law judge shall be:

1. To establish the date, time, and location of the hearing and any pre-hearing conference calls and motion hearings. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and their child;

2. To conduct the hearing in a fair and impartial man-



ner;

3. To ensure that all discovery, motion practice, and pre-hearing procedures are conducted in an expedited manner, consistent with the deadlines established by this rule concerning the exchange of evidence and the issuance of the final decision.

4. To determine if the parent wants an electronic or written copy of the final decision and the administrative record of the hearing;

5. To determine whether the parent wants the hearing open to the public and whether the parent wants their child to attend the hearing;

6. To determine whether the parent's advisor or representative is sufficiently knowledgeable about or trained regarding students who are gifted;

7. To determine how evidence may be exchanged prior to and during the hearing;

8. To determine how witnesses may be compelled to attend, be cross-examined, and confronted during discovery and at the hearing;

9. To determine how evaluations and recommendations may be disclosed prior to and during a hearing;

10. To summarize the facts and findings of the case and to arrive at an impartial decision based solely on information presented during the hearing;

11. To reach a final decision and mail to all parties copies of the facts, findings and decision regarding the hearing within forty-five (45) days of the district's receipt of the parent's request or the filing of the district's request for a hearing, whichever is sooner;

12. To be accountable for compliance with all deadlines and procedures established by the statutes and rules for such hearings;

13. To maintain the confidentiality of all information; and

14. To rule on requests for specific extensions of time beyond the periods set forth in subsection (7) of this rule, at the request of either party.

(j) Civil action. A decision made in a hearing conducted under subsection (7) of this rule shall be final, unless, within thirty (30) days, a party aggrieved by the decision brings a civil action in state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), Florida Statutes. The state circuit court shall: receive the records of the administrative proceedings; hear, as appropriate, additional evidence at the request of a party; and, basing its decision on the preponderance of the evidence, shall grant the relief it determines appropriate. In the alternative, any party aggrieved by the administrative law judge's decision shall have the right to request an impartial review by the appropriate district court of appeal as provided by Sections 120.68 and 1003.57(5), Florida Statutes.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(5) FS. Law Implemented 1001.42(4)(l) 1003.01(3)(a)(b), 1003.57(5), 1001.03(8) FS. History - New 9-20-2004.

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

A surrogate parent is an individual appointed to act in the place of a parent in educational decision-making and

in safeguarding a student's rights under the Individuals with Disabilities Education Act and Section 39.0016, F.S., when no parent can be identified; the student's parent, after reasonable efforts, cannot be located by the school district; the student is a ward of the State under State law; the student is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 1143a(6)); or a court of competent jurisdiction over the student has determined that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the student without judicial action. In addition to the requirements of Section 39.0016, F.S., the following requirements regarding the appointment of a surrogate parent for a student who has or is suspected of having a disability apply.

(1) Appointment of a surrogate parent. A surrogate parent for a student who is eligible for or who is suspected of being eligible for special programs made available through a school district or agency under contract with the school district shall be appointed by the district's school superintendent not more than thirty (30) days after the school district determines that the student needs a surrogate parent. The surrogate parent for a student who is eligible for or who is suspected of being eligible for special programs made available through a contract from the Department of Education shall be appointed by the individual specified in the contract. In the case of a student who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the student's case, provided the surrogate meets the qualifications in subparagraph (3)(b)2. of Section 39.0016, F.S.

(2) Compensation of a surrogate parent. A school district may compensate persons appointed as surrogate parents. A person acting as a surrogate parent is not an employee of the school district or Department of Education contracted program solely because he or she is paid by the school district or Department of Education contracted program to serve as a surrogate parent.

(3) Unaccompanied homeless youth. In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency or transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to the requirements in subparagraph (3)(b)2. of Section 39.0016, F.S., until a surrogate can be appointed who meets all of the requirements in subparagraph (3)(b)2. of Section 39.0016, F.S.

Rulemaking Authority 1001.02(1), 1003.571 FS. Law Implemented 1003.57, 1003.571 FS. History-New 6-28-83, Formerly 6A-6.333, Amended 12-22-08, 4-21-11.

#### **6A-6.0334 Individual Educational Plans (IEPs) and Educational Plans (EPs) for Transferring Exceptional Students.**

(1) Individual Educational Plans (IEPs) and Educational Plans (EPs) for students who transfer school districts within Florida. If an exceptional education student who had an IEP or EP that was in effect in a previous Florida

school district transfers to a new Florida school district and enrolls in a new school, the new Florida school district (in consultation with the parents) must provide free and appropriate public education (FAPE) to the student, which includes services comparable to those described in the child's IEP or EP from the previous Florida school district, until the new Florida school district either:

(a) Adopts the child's IEP or EP from the previous school district; or

(b) Develops, adopts, and implements a new IEP or EP that meets the applicable requirements of Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(2) IEPs or EPs for students who transfer from outside Florida. If an exceptional education student who had an IEP or EP that was in effect in a previous school district in another State transfers to a Florida school district and enrolls in a new school within the same school year, the new Florida school district (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP or EP from the previous school district), until the new Florida school district:

(a) Conducts an initial evaluation pursuant to subsections 6A-6.0331(4) and (5), F.A.C., (if determined to be necessary by the new Florida school district); and

(b) Develops, adopts, and implements a new IEP or EP, if appropriate, that meets the applicable requirements of Rules 6A-6.03011 through 6A-6.0361, F.A.C.

(c) The new school district is not required to obtain parental consent for the initial provision of services for transferring exceptional students determined eligible for services in Florida under this rule.

(3) Transmittal of records. To facilitate the transition for a child described in subsections (1) and (2) above:

(a) The new school district in which the student enrolls must take reasonable steps to promptly obtain the student's records, including the IEP or EP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school district in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(b) The previous school district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district.

Specific Authority 1001.02(1), 1003.01(3), 1003.57, 1006.09 FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01(3), 1003.57 FS. History-New 7-13-83, Formerly 6A-6.334, Amended 3-9-92, 12-22-08.

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

(1) Definitions. As used in Rules 6A-6.03011 through 6A-6.0361, F.A.C., 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, F.S.

(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, F.A.C., and determined to have a disability as defined under Rules 6A-6.03011 through 6A-6.03027, F.A.C., but does not include students who are gifted as defined under Rules 6A-6.03019 through 6A-6.030191, F.A.C.; 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, F.A.C. 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, F.A.C., 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, F.A.C.

(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, F.A.C., 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, F.A.C.

(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 Rules 6A-6.03011 through 6A-6.0361, F.A.C.;

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, F.A.C., an educational plan (EP) for students who are gifted that meet the requirements of Rule 6A-6.030191, F.A.C., 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, F.A.C.

(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 Rules 6A-6.03011 through 6A-6.0361, F.A.C., 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, F.A.C.

(v) Individual educational plan (IEP) team. IEP team means a group of individuals as described in Rules 6A-6.03011 through 6A-6.0361, F.A.C., 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 indi-

vidual who is legally responsible for the student's welfare; or

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

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 sub-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, F.S., 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 dis-

tance 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, F.S.

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, F.A.C., 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, F.A.C., 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 non-disabled 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, F.A.C.

(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, F.A.C., and as required by Section 1003.57(1)(d), F.S.; 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, F.A.C.

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, 10-17-04, 12-22-08.

#### **6A-6.0361 Contractual Agreements With Nonpublic Schools and Residential Facilities.**

(1) Requirement for contractual agreement.

(a) Each school district shall provide special education and related services to an exceptional student with a disability through a contractual agreement with an approved nonpublic school or community facility under the following circumstances:

1. When the school district has determined that no special educational program offered by it, a cooperating school district, or a state agency can adequately provide the educational program for the student, or

2. For the provision of the educational component of a residential placement for an exceptional student with a disability when such a placement is made by another public agency for the primary purpose of addressing residential or other non-educational needs in accordance with subsections (3) and (4) of Section 1003.57, F.S. The student's individual educational plan (IEP) developed in accordance with Rule 6A-6.03028, F.A.C., may reflect that the residential placement is not required in order for the student to benefit from special education which could otherwise be provided by the school district during the day.

(b) Each school district may provide special education and related services to an exceptional student with a disability through a contractual agreement with an approved nonpublic school or community facility for the provision of a non-residential interagency program that includes the provision of educational programming in accordance with the student's IEP.

(c) In collaboration with the Part C Early Steps Program, each school district may provide early intervention services for an infant or toddler with a disability through a contractual agreement with approved nonpublic or community facilities when the school district has determined that a nonpublic or community facility can provide appropriate services for the infant or toddler. The early intervention services shall be provided in accordance with

an individualized family support plan (IFSP) developed in accordance with Rule 6A-6.03029, F.A.C.

(d) The requirements of this subsection do not apply when a school district provides educational assessments and a program of instruction and special education services to students in the custody of Department of Juvenile Justice programs who are served in residential and nonresidential care facilities and juvenile assessment facilities located in the school district in accordance with Section 1003.52(3), F.S.

(2) Placement in a residential facility of a student with a disability by a public agency other than the school district.

(a) In accordance with subsection (3) of Section 1003.57, F.S., an exceptional student with a disability may be placed in a private residential care facility by the Department of Children and Families, Agency for Persons with Disabilities, or Agency for Health Care Administration. For the purposes of this subsection, "placement" means the funding or arrangement of funding by an agency for all or a part of the cost for an exceptional student to with a disability to reside in a private residential care facility and the placement crosses school district lines.

(b) The private residential care facility or a residential facility that is operated, licensed, or regulated by a public agency shall ensure that, within ten (10) business days of a student with a disability being placed in the facility, written notification of the placement is provided to the school district where the student is currently enrolled and counted for funding purposes under Section 1011.62, F.S., (sending school district) and the school district where the residential facility is located (receiving school district). If the student is not currently counted for funding purposes in the school district in which the legal residence of the student is located, the school district in which the legal residence of the student is located also shall be notified by the residential facility in writing within the required timeline. The placing agency shall collaborate with the residential facility to determine how that notification will be provided within the required timeline.

(c) In accordance with subsection (3) of Rule 6A-6.0334, F.A.C., the sending school district shall take reasonable steps to promptly respond to the residential facility's request for transmittal of the student's educational records. If the student's placement in the residential care facility occurs while the notification and procedures regarding payment are pending, the student shall remain enrolled in the sending school district and the sending school district shall collaborate with the residential care facility to ensure that the student receives a free and appropriate public education, special education, and related services, including services comparable to those in the described in the current IEP, until the notification and procedures regarding payment are completed.

(3) Each school district is responsible for assuring the proposed program at the nonpublic school or community facility is appropriate to meet the educational needs of the exceptional student with a disability, or early intervention needs of the infant or toddler with a disability,

placed through a contractual agreement. This subsection shall not be construed to limit the responsibility of agencies in the state other than the district school boards from providing or paying some or all of the cost of a free appropriate public education or early intervention services to be provided children with disabilities ages birth through twenty-one (21) years old.

(4) Before a contractual agreement with a nonpublic school or community facility is executed by the school district, the school district shall determine that the school or community facility meets the following criteria:

(a) The nonpublic school or community facility program is staffed by qualified personnel as defined in Rule 6A-1.0503, F.A.C., or appropriate licensing entities. Personnel in an out-of-state nonpublic school or community facility shall be certified or licensed in accordance with the standards established by the state in which the nonpublic school or community facility is located.

(b) For the appointment of persons as noncertificated instructional personnel, the governing body of the nonpublic school or community facility shall adopt the policies required in Rule 6A-1.0502, F.A.C.

(c) The nonpublic school's or community facility's instructional school day and year shall be consistent with Section 1011.61, F.S., taking into account the number of school hours or school days provided by the school district.

(d) The nonpublic school or community facility maintains current sanitation and health certificates and fire inspections for each appropriate building and will be open for inspection by appropriate authorities.

(e) The nonpublic school or community facility fully complies with the school district's procedures to protect the confidentiality of student records and information and assures it will provide the parent, or the student whose rights have transferred upon reaching the age of majority (age 18), the right of access, copies, amendments and hearings as specified in Rule 6A-1.0955, F.A.C.

(f) The nonpublic school or community facility will designate a staff member to be responsible for the administration of the provisions of the contract and for the supervision of the educational program provided to each student, or early intervention services provided to each child age birth through two (2), under the contract.

(g) The nonpublic school or community facility has written procedures for admission, dismissal, and separation of students, if appropriate.

(h) The nonpublic school or community facility has a written description of the support services that are available and will be provided to each student placed under a contract in accordance with each student's IEP or each child's IFSP.

(i) The nonpublic school or community facility has written policies concerning: care of the student in emergencies; clinical and administrative records; personnel policies; staff duties; fee schedules; food services; and insurance coverage.

(j) The school district has determined that the nonpublic school or community facility is in compliance with the United States Department of Education Office for Civil

Rights requirements with respect to nondiscrimination on matters related to race, color, national origin under Title VI of the Civil Rights Act of 1964; disability under Title II of the Americans with Disabilities Act of 1990 and its implementing regulations, 28 C.F.R. Part 35, and Section 504 of the Rehabilitation Act of 1973 and its implementing regulations, 34 C.F.R. Part 104; sex under Title IX of the Education Amendments of 1972; age under the Age Discrimination Act of 1975, or fair access to facilities under the Boy Scouts of America Equal Access Act (Section 9525 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001).

(k) The nonpublic school or community facility has filed reports with the Department of Education as prescribed in Section 1002.42, F.S., if applicable.

(5) Contents of contract. A contract between a district school board and a nonpublic school or community facility to provide educational programs for an exceptional student with a disability, or early intervention services to a child with disability age birth through two (2), shall not extend beyond the school district's fiscal year and shall include at least the following:

(a) Written assurance that the nonpublic school or community facility is staffed by qualified personnel as defined by Rule 6A-1.0503, F.A.C., or an appropriate and identified licensing entity.

(b) A description of the scope of service provided by the nonpublic school or community facility and how it relates to the IEP of the exceptional student with a disability or the IFSP of the infant or toddler with a disability.

(c) Provision for reporting to appropriate school district personnel and the parent on the student's progress in meeting the annual goals in accordance with the IEP or the child's and family's progress in meeting the major outcomes in accordance with the IFSP.

(d) Provision for appropriate school district personnel to review the program provided by the nonpublic school or community facility and to confer with the staff of the nonpublic school or community facility at reasonable times.

(e) Provision for reporting to appropriate school district personnel any non-attendance of the exceptional student with a disability or the infant or toddler with a disability.

(f) Provision for notifying appropriate school district personnel and the parent of the use of seclusion or restraint of the student, in accordance with Section 1003.573, F.S.

(g) The method of determining charges and sharing costs with other agencies for the placements under the contract, including the projected total cost to the school district.

(h) Identification of financial responsibility.

(i) Method of resolving interagency disputes. Such methods may be initiated by district school boards to secure reimbursement from other agencies.

(j) A schedule for review of the program being provided the exceptional student with a disability or the infant or toddler with a disability, through the contract.

(k) Provision for terminating the contract.

(l) Written assurance that the nonpublic school or community facility is in compliance with applicable provisions of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1974, and section 504 of the Rehabilitation Act of 1973.

(6) When contracting with a nonpublic school or community facility in accordance with paragraph (1)(a) of this rule, the school district shall be responsible for at least the following:

(a) Selecting an appropriate nonpublic school or community facility in consultation with the parent and other appropriate agency personnel.

(b) Providing for transportation for students age three (3) through twenty-one (21).

(c) Maintaining a case file including progress reports and periodic evaluations of the exceptional student with a disability, or infant or toddler with a disability.

(d) Verifying that the exceptional student with a disability, or the infant or toddler who has been determined eligible by the Part C Early Steps Program, is a resident of the school district and is enrolled in, or has made application for admittance to, a school district program.

(e) Providing for the cost of the student's educational program or early intervention services as specified in the contract.

(f) Maintaining documentation of the qualifications of personnel in nonpublic schools or community facilities as required in this rule or by the appropriate licensing entity, including the out-of-field notification requirements of Section 1012.42, F.S.

(g) Providing an appropriate educational program for the student in the least restrictive environment based on an annual or more frequent review of the student's IEP, or early intervention services in a natural environment based on six-month or more frequent review of the child's IFSP.

(h) Maintaining copies of the IEPs or IFSPs in the school district and providing copies of the IEPs of students who are in residential placements to the Department of Education, Bureau of Exceptional Education and Student Services.

(i) Reporting, data collection, and monitoring the use of seclusion or restraint of the student, in accordance with Section 1003.573, F.S.

(7) When an exceptional student with a disability, or infant or toddler with a disability, is enrolled in a nonpublic school or community facility program under a contractual arrangement for providing a special educational program or early intervention services as provided herein, the student, or infant or toddler, shall generate Florida Education Finance Program funds for the school district in the appropriate cost categories as established in Section 1011.62, F.S., under the following conditions:

(a) The nonpublic school or community facility program meets the criteria established in subsection (4) of this rule.

(b) The student is regularly attending the program, and the length of the school day and minimum number of days are in compliance with Rule 6A-1.045111, F.A.C.

(c) The student is appropriately identified as an exceptional student with a disability by the school district,



or the infant or toddler has been determined eligible as an infant or toddler with a disability by the Part C Early Steps Program, as required by Sections 1003.01(3)(a) and 1003.57(1)(b), F.S., and Rules 6A-6.03011 through 6A-6.03411, F.A.C., but does not include students who are gifted as defined under Rules 6A-6.03019 and 6A-6.030191, F.A.C.

(d) An IEP or IFSP for the student has been developed as required by subsection (6) of Rule 6A-6.0331, F.A.C.

(e) Full-time equivalent student membership for each exceptional student with a disability, or infant or toddler with a disability, under a contractual arrangement is included in the school district's report of membership.

(f) Annually and prior to the first report of full-time equivalent membership for a student in a residential placement in a nonpublic school or community facility program, a copy of the contracts signed by all participating parties shall be filed with the Department of Education, Division of Public Schools, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Tallahassee, Florida 32399.

(8) When a school district contracts for the educational component of a residential placement for a group of students, one (1) contract with student names or individual contracts shall be filed.

(9) When an exceptional student with a disability is offered an appropriate educational program by the school district and the parent waives this opportunity in favor of a program selected by the parent, the parent shall assume full financial responsibility for the student's education.

Rulemaking Authority 1001.02 FS. Law Implemented 1003.57(3), 1003.571, 1003.58, 1011.62 FS. History-New 6-17-74, Repromulgated 12-5-74, Amended 3-28-78, 8-8-78, 7-13-83, Formerly 6A-6.361, Amended 2-18-93, 5-15-11.

#### **6A-6.052 Dropout Prevention Programs.**

(1) This rule references the rules which establish uniform guidelines for the submission, review and approval of comprehensive dropout prevention plans and the operation and evaluation of district dropout prevention programs. Dropout prevention programs differ from traditional programs in scheduling, instructional strategies, philosophy, curricula, learning activities and assessment. These positive comprehensive programs shall provide courses leading to the achievement of a standard or special high school diploma, and shall ensure that coordination of services and activities with other programs and agencies exists. Each school that establishes or continues a dropout prevention program at that school site shall reflect that program in the school improvement plan as required under Section 230.23(18), Florida Statutes.

(2) Listed below are the rules which comprise these guidelines:

(a) 6A-6.0521 Definitions and Requirements Which Apply to All Dropout Prevention Programs.

(b) 6A-6.05221 Student Support and Assistance Component.

(c) 6A-6.0523 Comprehensive Dropout Prevention Plans.

(d) 6A-6.0524 Educational Alternatives Programs.

(e) 6A-6.0525 Teenage Parent Programs.

(f) 6A-6.0526 Substance Abuse Programs.

(g) 6A-6.0527 Disciplinary Programs.

(h) 6A-6.0528 Youth Services Programs.

(i) 6A-6.05291 Course Modification.

(j) 6A-6.05292 Common Objective Criteria and Evaluation of Dropout Prevention Programs.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 11-6-90, Amended 1-2-95.

#### **6A-6.0521 Definitions and Requirements Which Apply to All Dropout Prevention Programs.**

(1) Definitions.

(a) Program category means the broad eligibility area appropriate for the delivery of dropout prevention services and includes: educational alternatives, teenage parents, substance abuse, disciplinary, and youth services programs.

(b) Individual program means a specific program within a program category which has an identifiable set of goals, objectives, and strategies. An individual program is designed for a particular student population and is implemented according to an approved plan. A district may have more than one (1) individual program within a program category.

(c) Positive program means that a program includes provision for student success, regular feedback on academic and behavioral progress, counseling and other student services, evaluation strategies and special educational strategies that differ from the traditional approach.

(d) A high school diploma or its equivalent means a diploma that meets all the requirements of Section 232.246(1)-(6) and (8)-(10); or 232.247, Florida Statutes.

(e) Standard dropout prevention class means the class in which all students are dropout prevention students.

(f) Course modification means lengthening or shortening time in class, alternative ways of measuring student performance, or the integration of curriculum frameworks or performance standards in an interdisciplinary approach.

(g) Student services personnel means guidance counselors, psychologists, social workers, visiting teachers, occupational placement specialists, health services providers, school administrators, district level dropout prevention coordinators, teachers, or parents.

(h) Emancipated minor means a minor who is released from the control of parents or guardians.

(i) Student support and assistance component means the delivery of academic assistance and coordination of support services to students enrolled full-time in a regular classroom who are eligible for educational alternative programs.

(j) In-school suspension means the temporary removal of a student from the student's regular school program and placement in an alternative program.

(k) Out-of-school suspension means the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored



activities, except as authorized by the principal or the principal's designee for a period not to exceed ten (10) school days.

(2) Requirements.

(a) Credits. Students served in all individual dropout prevention programs shall retain their right to earn the number and type of credits required for a standard or special diploma pursuant to Section 232.246(1)-(6) and (8)-(10); or 232.247, Florida Statutes.

(b) Coordination. All dropout prevention programs shall demonstrate coordination with appropriate agencies and other school programs that provide services to participating students in order to fully utilize human and financial resources. A part of this coordination shall be to ensure that procedures for postsecondary transition include child care referral, career counseling and academic and vocational training options. Appropriate agencies are defined as but are not limited to: the Department of Health and Rehabilitative Services, the Department of Juvenile Justice, the Department of Law Enforcement, the Department of Corrections, the Department of Labor, Employment and Security, and the district's local Pre-K Interagency Coordinating Council.

(c) Exceptional student education referral. An exceptional student referred for placement into a dropout prevention program shall have an individual educational plan review prior to that placement. A staff representative of the dropout prevention department in the district shall participate in that review. This requirement shall not apply to students served in youth services programs, agency based substance abuse programs, or in-school suspension programs.

(d) Limited English proficient students. Limited English proficient students, meeting the eligibility criteria for individual dropout prevention program categories, shall be considered for placement and enrollment in the appropriate dropout prevention program based on student needs. Limited English language proficiency shall not be used as a criterion for placement.

(e) Parent notification. Parents shall be notified annually in writing as specified in Section 230.2316(8), Florida Statutes, of their child's placement into any dropout prevention program and of their right to review any action relating to such placement. For educational alternatives of choice, which are voluntary and for which a student's parent or guardian has requested participation, such notification of administrative review shall not be required.

(f) Student records. Records of students participating in dropout prevention programs shall contain the following:

1. The students' dropout prevention program category.
2. Students' entry and exit dates in the dropout prevention program.
3. Documentation of the eligibility of each student and any required interventions that is dated prior to each placement in a dropout prevention program. Eligibility for multi-year programs shall be documented annually.
4. Number of instructional periods or hours of participation.

5. Evaluation of each student's academic and behavioral progress.

6. Annual written documentation of parent notification and evidence of involvement in the placement decision prior to the date of the student's membership in a voluntary program. Parents shall be notified in writing within five (5) school days of the student's initial membership in an assigned program. Judicial and agency records shall satisfy this requirement in youth services programs and agency based substance abuse programs. Notification shall be in the parent's native language or the language most understood. For educational alternatives of choice, which are voluntary and for which a student's parent or guardian has requested participation, such notification of administrative review shall not be required.

7. Documentation of the academic assistance and support services provided students and teachers in student support and assistance components.

(g) Student eligibility for full-time equivalent (FTE). Eligible dropout prevention students may be reported for dropout prevention full-time equivalent student membership in the Florida Education Finance Program in the following dropout prevention settings:

1. Standard dropout prevention class, or
2. Student support and assistance component.

(h) Criteria for eligibility. Districts shall establish and implement eligibility criteria and procedures for each individual dropout prevention program.

(i) Certification. Any certification is appropriate for teachers in dropout prevention programs. Dropout prevention teachers shall be instructional staff members as defined in Rule 6A-1.0501, FAC.

(j) Students served in all individual dropout prevention programs shall retain their right to have access to a school day as defined by Section 228.041(13), Florida Statutes.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 6-19-91, 7-7-92, 9-5-93, 1-2-95.

#### **6A-6.05221 Student Support and Assistance Component.**

Students served through this component shall generate dropout prevention funding for the classes in which they receive direct services or benefits due to the auxiliary services being provided to the student, teacher, or both. This component may be delivered through a course in which intended outcomes of the course framework include affective skills or remediation for students who have failed or are at risk of failing the High School Competency Test. Students may be reported for dropout prevention full-time equivalent (FTE) in the Florida Education Finance Program (FEFP) provided the following conditions are met:

(1) Student support and assistance plan. A student support and assistance plan shall be developed annually by a student services team for each dropout prevention student served through a student support and assistance component. The plan shall identify the students' academic and behavioral needs, annual goals, instructional objec-

tives, educational and related services to be provided, evaluation procedures and schedule for determining on an annual basis progress toward meeting goals and instructional objectives. This plan shall be developed for each student reported for dropout prevention FTE while in membership in a non-dropout prevention class. The plan shall specify the correlation between services and student performance for each period the student is reported for dropout prevention FTE.

(2) Criteria. Any student who meets the eligibility criteria for any dropout prevention program may be served through the student support and assistance component.

(3) Academic assistance and support services shall be provided and documented for each eligible student reported as dropout prevention FTE in this component. Those services for which districts shall submit dropout prevention FTE shall be specified in the student support and assistance plan and include at least one (1) of the following:

(a) Supplemental materials or alternative strategies provided to assist with course modification, behavior management, or alternative assessment.

(b) Instructional aides, case manager, student services personnel, or other support personnel assigned to assist eligible dropout prevention students and their teachers.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 1-2-95.

#### **6A-6.0523 Comprehensive Dropout Prevention Plans.**

(1) The local school board shall approve the dropout prevention plan and all subsequent amendments prior to reporting students for dropout prevention funding.

(2) Program categories. Each comprehensive plan shall include descriptions of individual dropout prevention programs for the following categories:

(a) Educational alternative programs.

(b) Teenage parent programs.

(c) Substance abuse programs.

(d) Disciplinary programs.

(e) Youth services programs.

(3) Individual program plan. For individual programs listed in subsection (2) of this rule reporting dropout prevention full-time equivalent student membership (FTE), the following headings and subheadings shall be included in the comprehensive plan. For teenage parent programs, please refer to Rule 6A-6.0525, FAC., for specific requirements for plan format.

(a) Agency coordination.

(b) Specific outcome objectives.

(c) Evaluation.

(d) Specific student eligibility criteria.

(e) Student admission procedures.

(f) Program operating procedures to include:

1. curriculum,

2. special strategies,

3. equal access for eligible exceptional and limited English proficient students,

4. student services,

5. grade levels of students served,

6. implementation sites.

(g) Total dropout prevention FTE student membership projected based on:

1. number and length of class periods,

2. average class size,

3. length of stay,

4. total number of students served.

(h) Personnel qualifications.

(i) Staff development activities.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0524 Educational Alternatives Programs.**

Educational alternatives programs are programs designed to serve students who are unmotivated or unsuccessful and shall have strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation is voluntary and means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has been retained;

(b) Student has failing grades or grades not commensurate with documented ability levels;

(c) Student has high absenteeism;

(d) Student has low achievement test scores;

(e) Student has performed successfully in an educational alternative program and wishes to remain enrolled in such programs; or

(f) According to district criteria, student exhibits behavior of a non-disciplinary nature which interferes with school success. This behavior shall be documented by student services personnel.

(3) Instructional periods. Instruction shall be provided for a minimum of two (2) instructional periods per day unless the student participates in a student support and assistance component rather than standard dropout prevention classes.

(4) Service delivery models. Educational alternatives programs may be offered at alternative sites, regular school campuses, or any location approved by the district school board as a school center. Educational alternatives programs may be offered full-time or part-time.

(5) Where the student in the program is a volunteer the notice of requirements in subsections (6) and (7) of this rule does not apply.

(6) Referral for evaluation of eligibility for exceptional student education. Any student assigned to an alternatives education program for unsuccessful or disinterested students, which is designed to return the student to the conventional educational program, shall be referred for an evaluation of eligibility for exceptional student educational services if not returned to the regular program after a specified period of time. Students identified according to Rule 6A-6.0524, FAC., as unsuccessful or disinterested shall be referred after a total of one hundred twenty (120) days of participation. Participation applicable to this provision must occur within any two

(2) consecutive school semesters. These provisions shall not apply to students in other eligibility categories or to students in programs designed to offer a comprehensive multi year alternative to conventional public schools and for which student participation is entirely optional.

(7) Notification of parents. Upon the first placement in any school year of a student into any alternatives education program for unsuccessful or disinterested students, the district shall give the student's parents written notification of their right to request an evaluation to determine eligibility for exceptional student education.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0525 Teenage Parent Programs.**

Pregnant and parenting students and their children shall be entitled to participate in Teenage Parent (TAP) Programs designed to provide comprehensive educational and ancillary services to facilitate the parents' completion of high school. Students participating in teenage parent programs shall be eligible for all services afforded to students enrolled in programs pursuant to Section 230.2316, Florida Statutes, and Rules 6A-6.05221 and 6A-6.05291, FAC.

(1) Requirements.

(a) Credits. Students served in teenage parent programs shall retain the right to earn the number and type of credits required for a standard or special diploma pursuant to Sections 232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes.

(b) Exceptional student education referral. An exceptional student referred for enrollment in a teenage parent program shall have an individual educational plan review prior to enrollment. A staff representative of the teenage parent program in the district shall participate in the review.

(c) Limited English proficient students. Limited English proficient students meeting the eligibility criteria for the teenage parent program shall be considered for enrollment in the teenage parent program based on student needs.

(d) Parent notification. Parents shall be notified annually in writing as specified in Section 230.2316(8), Florida Statutes, of their child's enrollment in a teenage parent program and of their right to review any action relating to such enrollment.

(e) Student records. Records of students participating in a teenage parent program shall contain the following:

1. The students' entry and exit dates in the teenage parent program.
2. Documentation of the eligibility of each student and child prior to enrollment in a teenage parent program. Eligibility for multi-year programs shall be documented annually.
3. Number of instructional periods or hours of participation.
4. Evaluation of each student's academic and behavioral progress.
5. Annual written documentation of parent notification

and involvement in the enrollment decision prior to the date of the student's participation in this voluntary program. Notification shall be in the parent's native language or in the language most understood.

6. Documentation of the academic assistance and support services provided students and teachers in student support and assistance components.

(f) Student eligibility for full-time equivalent (FTE). Eligible pregnant and parenting students shall be reported for teenage parent full-time equivalent student membership in the Florida Education Finance Program in the following settings:

1. Standard teenage parent program in which all students are teenage parent program participants.

2. Student support and assistance component.

(g) Certification. Any certification is appropriate for teachers in teenage parent programs. Teenage parent program teachers shall be instructional staff members as defined in Rule 6A-1.0501, FAC.

(h) Students served in teenage parent programs shall retain their right to have access to a school day as defined by Section 228.041(13), Florida Statutes.

(2) Student eligibility. Districts shall implement student eligibility criteria and establish enrollment procedures for each teenage parent program.

(a) Voluntary participation. Participation in a teenage parent program is voluntary. Pregnant students, teenage parent students, and their children shall not be assigned to the program without annual parental or adult student permission.

(b) Criteria for eligibility.

1. Pregnant students.

2. Parenting students.

3. Children of parenting students and teenage parent program completers.

(c) Documentation of eligibility includes:

1. A county public health unit or private physician's certification of pregnancy;

2. A child's birth certificate, copy of application of birth certificate, hospital records, or a notarized affidavit of fatherhood signed by mother and father;

3. Evidence of parent's program completion and mentation of child's birth.

(3) Instructional periods. The program shall consist of instruction to participants full-time, part-time or on a variable schedule as needed to deliver the pregnancy- or parenting-related curriculum as specified in Section 230.23166(3)(b), Florida Statutes. Children of teenage parent students enrolled in teenage parent programs shall be served during the time that the parent student is earning credit towards a standard or special diploma pursuant to Sections 232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes.

(4) Service delivery models. Teenage parent programs may be offered at any location approved by the district school board as a school center.

(5) Ancillary services. School districts shall develop and implement procedures for the provision or coordination of the four ancillary services of child care, social services, health services and transportation for pregnant

and parenting students who are currently enrolled or have completed a teenage parent program and their eligible children. Program completers are those students who have successfully completed a teenage parent program as described in the district's approved teenage parent program plan. Ancillary services are described as:

(a) Child care. Child care includes developmentally appropriate learning activities for the children of teenage parent program participants and completers during the hours when the child's teenage parent is earning credit pursuing a standard or special diploma as defined by Sections 232.246(1)-(5) and (8)-(10) and 232.247, Florida Statutes. Districts choosing to operate school-based child care for children birth through age three must be licensed by the Department of Health and Rehabilitative Services pursuant to Section 402.3025(1), Florida Statutes, or by the local licensing agent.

1. Districts may report children of teenage parent program participants and completers for teenage parent full-time equivalent student membership in the Florida Education Finance Program when the district provides or contracts for child care for the child and the following criteria are met:

a. The child is assigned a student identification number and all appropriate data for reporting is collected;

b. The parent is currently enrolled in a teenage parent program or is a program completer and enrolled in courses that meet the graduation requirements pursuant to Sections 232.246 (1)-(5) and (8)-(10) and 232.247, Florida Statutes;

c. The teenage parent has not graduated or legally withdrawn from school;

d. The child has not attained the age of five or is not eligible to enroll in kindergarten according to Section 232.045, Florida Statutes, whichever comes last;

e. The child is not served in a preschool program supported by other state or federal funds such as Prekindergarten Early Intervention, Head Start, or other subsidized child care.

(b) Health services. Health services include health and nutrition education and routine prenatal and post-natal health checkups during the time that the teenage parent student is reported for FTE in the teenage parent program. Routine check-ups for the children of teenage parent program participants and completers, including immunizations, shall be provided or coordinated during the time those children are reported for FTE in a teenage parent program.

(c) Social services. Social services include counseling assistance or case coordination related to economic assistance, during the time that the teenage parent students or their children are reported for FTE in a teenage parent program.

(d) Transportation. Transportation includes transportation for pregnant and parenting teenage parent program participants, program completers who have returned to their home schools, and their children regardless of distance from school pursuant to Section 236.083(1)(b), Florida Statutes. Transportation shall be provided for teenage parents and their children to and from home and

the child care facility and for the teenage parents to and from the child care facility and the school, as required for the parent's educational activities in credit earning hours.

(6) The local school board shall approve the teenage parent program plan and all subsequent amendments prior to reporting students and their children for teenage parent program funding. The individual program description of the teenage parent program plan shall include:

(a) Agency coordination.

(b) Specific outcome objectives.

(c) Evaluation.

(d) Specific student eligibility criteria.

(e) Student admission procedures.

(f) Program operating procedures to include:

1. Pregnancy- and parenting-related curriculum.

2. Special strategies.

3. Equal access for eligible exceptional and limited English proficient students.

4. Student services.

a. Description of child care services.

b. Description of health services.

c. Description of social services.

d. Description of transportation.

e. Other services which may be provided to participants.

5. Implementation sites.

6. Length of stay in program for students and their children.

7. Total teenage parent program FTE projected for students and their children.

(7) Program Evaluation. Each district receiving state funding for teenage parent programs through the Florida Education Finance Program shall submit an annual report to the Department documenting the extent to which each of the individual teenage parent programs has met the objectives established by the district. These objectives, developed by the district, are based upon the following required common objective criteria:

(a) Remaining in school or earning a high school diploma.

(b) Improving parenting skills.

(c) Giving birth to babies weighing 5.5 pounds or greater.

Specific Authority 229.053(1), 230.23166 FS. Law implemented 230.23166 FS.  
History - New 10-30-90, Amended 1-2-95, 3-20-96.

#### **6A-6.0526 Substance Abuse Programs.**

Substance abuse programs are programs designed to serve students who have a documented substance abuse problem and shall include strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC. The problem shall be a documented substance abuse of either the student, parent, or an immediate family member who is or was living in the same household. Such problems shall be documented in agency or school records.

(1) Voluntary or assigned participation. Participation in a substance abuse program is assigned but may be vol-



untary. Assigned participation means that the placement is required by the school district, courts, or other agencies. Voluntary participation means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has documented drug-related or alcohol-related problem; or

(b) Student has immediate family members who have documented drug-related or alcohol-related problems that adversely affect student's performance in school.

(3) Instructional periods. The instructional program shall be provided to participants a minimum of five (5) hours per day and may be offered on a variable schedule as needed to deliver the curriculum. The program shall include instruction designed to deter substance abuse.

(4) Service delivery models. Substance abuse programs may be offered in a nonschool-based residential or day substance abuse treatment program facility, alternative sites, regular school campuses, or in any location approved by the district school board as a school center.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.0527 Disciplinary Programs.**

Disciplinary programs are programs that are longer than ten (10) days in duration and are designed to serve students who are disruptive in the traditional school environment. However, in-school suspension programs may be less than ten (10) days in duration as specified in Section 230.2316(4)(c)3.5., Florida Statutes. These programs must place strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation in a disciplinary program is assigned but may be voluntary. Assigned participation means that the placement is required by the school district, courts, or other agencies. Voluntary participation means that the student is not assigned to the program without parental or adult student permission.

(2) Criteria for eligibility.

(a) Student has a history of disruptive behavior which interferes with his own or others' educational program(s) or results in frequent conflicts of a disruptive nature in or out of the classroom while the student is under the jurisdiction of the school;

(b) Student severely threatens the general welfare of others;

(c) Student requires assistance in behavior modification beyond that which can be provided in the traditional class; or

(d) Student has committed an offense which would warrant out-of-school suspension or expulsion.

(3) Instructional periods. The instructional program shall consist of instruction and counseling to participants full-time, part-time or on a variable schedule as needed to deliver the curriculum. Whether the program is full-time or part-time, all students should receive a minimum of five hours of instruction per day.

(4) Service delivery model. Disciplinary programs may be offered in in-school suspension, alternative sites, regular school campuses, or in any location approved by the district school board as a school center. The program may be planned and operated in collaboration with local law enforcement or other community agencies. If an in-school suspension model is used, the program is subject to all requirements specified in Section 230.2316(4)

(c)3.5., Florida Statutes. Prior to assigning the student to a disciplinary program, the district shall attempt a variety of educational and student services unless the student has committed an offense which would warrant expulsion.

(5) Evaluation. The district shall determine procedures for evaluating students who are returning from detention or court adjudicated placement prior to assigning them to a disciplinary program.

(6) Where the student in the program is a volunteer, the notice of requirements in subsections (7) and (8) of this rule does not apply.

(7) Referral for evaluation of eligibility for exceptional student education. Any student assigned to an alternative education program for disruptive students which is designed to return the student to the conventional educational program shall be referred for an evaluation of eligibility for exceptional student educational services if not returned to the regular program after a specified period of time. Students identified as disruptive according to Rule 6A-6.0524, FAC., shall be referred after a total of ninety (90) days of participation in an alternative education program. Participation applicable to this provision must occur within any two (2) consecutive school semesters. These provisions shall not apply to students in other eligibility categories or to students in programs designed to offer a comprehensive multiyear alternative to conventional public schools and for which student participation is entirely optional.

(8) Notification of parents. Upon the first placement in any school year of a student into any alternative education program for disruptive students, the district shall give the student's parents written notification of their right to request an evaluation to determine eligibility for exceptional student education.

(9) School annual report. In each school which has implemented a dropout prevention in-school suspension program, the school principal shall prepare an annual report provided to all members of the school advisory council which delineates:

(a) number of students in-school suspended,

(b) number of students out-of-school suspended,

(c) proportion of populations represented in in-school and out-of-school suspension groups, and

(d) quantification of the various bases for suspension.

(10) Program maintenance. Each district shall establish a process for determining in-school suspension program's effect on rate of expulsion and out-of-school suspension. After providing assistance, the district shall disapprove any school based in-school suspension programs that continually fail to directly reduce the school's expulsion or out-of-school suspension rate.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316



#### **6A-6.0528 Youth Services Programs.**

Youth services programs are programs designed to serve students who are assigned to a detention, commitment or rehabilitation program operated by a state or community-based agency or through the Department of Health and Rehabilitative Services or the Department of Juvenile Justice. These programs must place strong emphasis on appropriate agency coordination as specified in Rule 6A-6.0521(2)(b), FAC.

(1) Voluntary or assigned participation. Participation in a youth services program is assigned. Assigned participation means that the placement is required by the school district, courts or other agencies pursuant to Chapter 39, Laws of Florida.

(2) Criteria for eligibility.

(a) Student is neglected, delinquent or dependent; or.

(b) Student is assigned by the court to a detention, commitment or rehabilitation program. Commitment means any facility where the courts have adjudicated youths.

(3) Instructional periods. The instructional program shall be provided a minimum of five (5) hours per day and shall consist of intensive counseling, conflict resolution training, behavior modification, therapy, appropriate academic, vocational or exceptional curricula and related services under the supervision of a qualified teacher as specified in Rule 6A-1.0501, FAC. These educational services may be delivered at times of the day most appropriate for a youth services program. However, youth services programs of less than forty (40) days duration which take place in a park or wilderness setting may be limited to tutorial and vocational employability activities. The instructional program shall provide the opportunity for attainment of a high school diploma and support rehabilitation goals.

(4) Service delivery model. Programs may be offered in residential or nonresidential detention facilities, community-based agency facilities, facilities operated or contracted by the Department of Juvenile Justice or Department of Health and Rehabilitative Services, or commitment settings such as county, state or federal correctional institutions.

(5) School entry. Districts are encouraged to implement transition support systems to assist students returning to school from youth services programs.

(6) Cooperative agreements. To receive funding through the Florida Education Finance Program for the operation of youth services programs, school districts shall submit to the Department evidence of cooperative agreements with the Secretary of Juvenile Justice or the Secretary's designee for delinquent programs and Secretary of Health and Rehabilitative Services or the Secretary's designee for other programs. The cooperative agreement shall address, at a minimum, the following subjects: purpose, enabling legislation, definitions, inter/intra agency linkages, roles and responsibilities, administration, allocation of resources, interagency disputes,

assessment, curriculum, instruction, planning, classroom management, attendance, certification, licensure, staff development, and transition.

Specific Authority 229.053(1), 230.2316(17) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.05281 Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, or Day Treatment Program.**

School districts must provide instruction to prepare all students to demonstrate proficiency in the skills necessary for successful grade-to-grade progression and high school graduation. For students placed in Department of Juvenile Justice (DJJ) programs, collaboration between the DJJ, the Department of Education, school districts, and private providers is essential in order for these students to attain this goal and become productive members of the community.

(1) Student Eligibility.

(a) Students who do not attend a local public school due to their placement in a DJJ detention, commitment, or day treatment program shall be provided high quality and effective educational programs by the local school district in which the DJJ facility is located or by a Juvenile Justice provider through a contract with the local school district.

(b) If any student in these DJJ facilities has filed an intent to terminate school enrollment, the local school district shall notify these students of the option of enrolling in a program to attain a general education diploma (GED).

(c) Exceptional Student Education. All students placed in a DJJ program, who meet the eligibility criteria for exceptional student education, shall be provided a free appropriate public education consistent with the requirements of Chapter 6A-6, F.A.C. Students with disabilities, as defined by Section 504 of the Rehabilitation Act, shall be provided the necessary aids and services.

(d) Limited English Proficient Students. All limited English proficient students placed in a DJJ program shall have equal access to entitled services, including assessment and appropriate instructional strategies consistent with the requirements of Chapter 6A-6, F.A.C.

(2) Student Records.

(a) Content. Each school district shall maintain educational records for students in DJJ programs as required by Section 1003.25, F.S. The content of these records shall be as defined in subsections 6A-1.0955(2)-(5) and 6A-1.0014(2), F.A.C., Section 1003.51, F.S., and paragraph (5) (d) of this rule.

(b) Transfer of Educational Records. Each school district shall transfer records of students entering or exiting DJJ programs as provided in paragraph 6A-1.0955(7)(b) and subsection 6A-1.0014(2), F.A.C. Each school district shall provide these students' educational records no later than five (5) school days after the receipt of the request. Each school district shall make available a copy of the student's transcript record, including pertinent exceptional student education information, to designated DJJ

staff for inclusion in the DJJ file when the student exits the program. DJJ staff shall provide this information to the receiving school district.

(c) Protection of Privacy. The requirements of Section 1002.22, F.S., and applicable rules of the State Board of Education apply to the Department of Juvenile Justice's maintenance and transfer of these records as described in paragraphs (2)(a) and (b) of this rule.

(3) Student Assessment.

(a) To ensure high quality and effective educational programs for youth in DJJ detention, commitment, or day treatment program, the school district shall provide for the review of the student's educational records and conduct assessments, consistent with the requirements of this subsection, in order to identify the students' functioning levels, provide appropriate educational programs, and report the learning gains of the student.

(b) All students in DJJ commitment or day treatment program, who have not graduated from school, shall be assessed within ten (10) school days of the student's commitment. The entry assessments shall include:

1. Academic measures that provide proficiency levels in:

- a. Reading,
- b. Mathematics,
- c. Writing.

2. Vocational interest and/or aptitude measures.

(c) For the students referenced in paragraph (3)(b) of this rule, exit assessments shall include, at a minimum, the academic measures.

(d) Students placed in a detention center shall be assessed within ten (10) school days upon entry for academic measures.

(e) A common entry and exit academic assessment shall be selected as required by Section 1003.52, F.S., that is appropriate for the age, grade, and language proficiency, and program length of stay of the students and shall be non-discriminatory with respect to culture, disability, and socioeconomic status.

(f) All students in DJJ detention, commitment, or day treatment program shall also participate in the state and district-wide assessments required by Sections 1008.22, 1008.25, 1003.43, and 1003.438, F.S.

(g) The results of the academic measures, as required by paragraphs (3)(b)-(d) of this rule shall be reported in the format prescribed by Rule 6A-1.0014, F.A.C., to the Department of Education via the Automated Student Data System. The format for the reporting of the results of the academic measures shall include at a minimum standard scores for each academic area assessed.

(h) The Department of Education shall include the results of these assessments in applicable statewide and school reports.

(4) Individual Academic Plans.

(a) An individual plan for educational progress shall be developed within twenty-two (22) school days of student entry to DJJ detention programs and within fifteen (15) school days of entry to DJJ commitment or day treatment program. This plan shall be based upon the student's entry assessments and past educational history

and must address the areas of academic, literacy, and life skills. The plan shall include:

1. Specific and individualized long-term goals and short-term instructional academic and career objectives;
2. Remedial strategies and/or tutorial instruction;
3. Evaluation procedures;
4. A schedule for determining progress toward meeting the goals and instructional and career objectives.

(b) Progress monitoring plans, required by Section 1008.25, F.S., or individual educational plans (IEPs) developed for eligible exceptional students, 504 plans developed for eligible students with disabilities, or individual plans developed for limited English proficient students may incorporate the requirements of subsections (4) and (5) of this rule.

(5) Transition Services.

(a) For all students in DJJ commitment or day treatment program, an individual transition plan based on the student's post-placement goals shall be developed cooperatively with the student, his/her parents, school district and/or contracted provider personnel and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.

(b) The transition plan must address, at a minimum:

1. Academic re-entry goals,
2. Career and employment goals,
3. The recommended educational placement for the student.

(c) Key personnel who must be involved in entry transition activities for students in juvenile justice programs shall include: appropriate personnel responsible for student assessment, a guidance counselor from the school district and/or program personnel who are responsible for providing guidance services under the supervision of the school district's guidance counselor, a registrar or a designee of the school district who has access to the district's MIS system, and instructional personnel.

(d) Exit portfolios shall be created for each student prior to exit from a commitment or day treatment program and provided to the program personnel for inclusion in the youth's individual record. This information shall be provided to the home school district. The exit portfolio shall include the records required by Sections 1003.51, F.S., and include at a minimum:

1. Transition plan;
2. Results of district and state-wide assessments;
3. Individual academic plan, 504 plan, and/or individual educational plan for exceptional students;
4. Academic record or transcript; and
5. Work and/or project samples.

(6) Instructional Program and Academic Expectations.

(a) School Day and Year. The instructional program shall consist of 250 days of instruction, or its hourly (1200) equivalent, of which ten (10) days for residential or twenty (20) days for day treatment may be used for teacher training/planning, distributed over twelve (12) months as required by Section 1003.01(11), F.S. Each school district shall collaborate with private providers and

the DJJ, as appropriate, to develop a school calendar for these programs to be adopted by the local school board.

(b) Requirements. DJJ schools shall have the flexibility in student scheduling to meet the basic academic and career needs of the student. The instructional program shall meet the requirements of Sections 1003.42, 1003.43, 1003.438, 1003.52, 1008.23, and 1008.25, F.S., and include:

1. Curricular offerings, consistent with the Florida Course Code Directory and Instructional Personnel Assignments as adopted in Rule 6A-1.09441, F.A.C., that reflect the students' assessed educational and transition needs and meet the students' needs as identified by the individual plan as required by paragraph (4)(a) of this rule. All students shall receive a curriculum to address their individual, academic, career, and transition needs. Students shall receive career training, workplace readiness training, or career awareness and exploration instruction while in the juvenile justice program.

2. GED preparation that meets GED course requirements specified in Rules 6A-6.0571 and 6A-6.021, F.A.C., and adult education course descriptions and/or the school district's approved GED Exit Option that meet the requirements specified by the Department of Education.

3. Instructional activities that are based on the students' assessed academic needs. Such activities shall be designed to assist students in advancing to their age appropriate grade level or to assist students in meeting their goals for reentry into the public school system, alternative schools, adult education, career education, employment, or post secondary education.

4. Instruction that is individualized to address the academic and career goals and objectives that are outlined in each student's individual academic plan.

5. Instruction that is delivered through a variety of instructional techniques to address students' academic levels and learning styles, including competency based programs and access to the Florida Virtual School as required in Section 1003.52(4), F.S.

(7) Qualifications and Procedures for Selection of Instructional Staff.

(a) The school district shall ensure that only qualified instructional staff members, consistent with the requirements of Rules 6A-1.0502 and 6A-1.0503, F.A.C., are employed to provide instruction to students in DJJ programs. Any use of non-certificated instructional staff must be approved by the school board.

(b) School districts shall recruit and train teachers who are interested, qualified, and experienced in educating students in DJJ programs as required by Section 1003.52(10), F.S. Teachers assigned to educational programs, operated by local school districts, in DJJ facilities shall be selected by the school district in consultation with the director of the DJJ facility, as required by Section 1003.52(10), F.S.

(c) The school district's substitute teacher pool shall also be available for these educational programs.

(d) Full-time teachers working in juvenile justice schools, whether employed by a district school board or a provider, shall be eligible for the critical teacher short-

age tuition reimbursement program as defined by Section 1009.58, F.S., and other teacher recruitment and retention programs.

(8) Funding.

(a) To implement the Full-Time Equivalent (FTE) funding for students in DJJ programs based on direct instructional time:

1. Student attendance shall be taken once per class period or during each course reported for FTE purposes.

2. Time students spend participating in school activities such as field trips, performances, or receiving school-based services such as counseling may be counted as direct instructional time.

3. Certain interruptions to the education program, over which the teacher and student have no control, do not have to be deducted from the direct instructional time reported for FTE. These include:

a. Disaster drills;

b. Lockdowns of the classroom or program for security purposes;

c. Bomb scares;

d. Court hearings; and

e. Meetings students have with law enforcement personnel during school hours.

4. Direct instructional time shall not be counted for students who choose not to attend class or who are not present at school due to illness, or other non-school related activity other than those listed above.

(b) As required by Sections 1003.51 and 1010.20, F.S., at least ninety (90) percent of the FEFP funds generated by students in DJJ programs must be spent on instructional costs for these students and one-hundred (100) percent of the formula-based categorical funds generated by these students must be spent on appropriate categoricals such as instructional materials and public school technology for these students.

(c) Compliance with the expenditure requirement in Section 1010.20, F.S., for programs provided directly by local school boards shall be verified by the Department of Education through the review of the district's cost report as required by Section 1010.20, F.S. If school districts enter into contracts with private providers for these educational programs, an accounting of the expenditures, as specified in paragraph (8)(b) of this rule shall be required by the local school board.

(9) Contracts with Private Providers.

(a) School districts may provide services directly or may enter into a contract with a private provider to provide educational services to these youth. Such contracts with private provider shall address the responsibilities of the school district and the private provider for implementing the requirements of this rule. The private provider shall have, at a minimum:

1. Documented experience in providing high quality educational services or a detailed plan for providing high quality educational services that meets applicable state and federal requirements.

2. Sufficient financial stability and resources to hire an adequate number of certified or qualified instructional personnel.

(b) Prior to contracting with a private provider, the school district shall:

1. Review and consider the provider's past performance history, including the results of prior Quality Assurance Reviews.

2. Review the private provider's contract, if any, with DJJ for the care and custody of the youth in the commitment, detention, or day treatment program to ensure that services and resources are coordinated and not duplicative.

(c) Contracts with private providers, as described above, shall be submitted to the Department of Education prior to the October FTE Reporting Survey for review to verify compliance with this rule.

(d) The provider(s) of career education programs in the district in which the DJJ facility is located shall be responsible for notifying the DJJ program of the requirements for enrollment and completion of these programs. The inclusion of DJJ students in the school district's career education program may be included in the contract referenced above and the cooperative agreement required by Section 1003.52, F.S.

(10) Interventions and Sanctions.

(a) If the educational program in a DJJ detention, commitment, or day treatment program has received an unsatisfactory rating on the educational component of the Quality Assurance Review, does not meet the minimum requirements for standards of the Educational Quality Assurance Review, or has demonstrated noncompliance with state and federal requirements, the Department of Education shall initiate a series of interventions and graduated sanctions. Sanctions shall be initiated against programs that have not taken appropriate corrective actions within six months.

(b) Interventions shall include:

1. The provision of technical assistance to the program.

2. The development of a corrective action plan with verification of the implementation of the corrective actions within ninety (90) days.

3. A follow-up review of the educational program.

(c) Sanctions shall include:

1. Public release of the unsatisfactory findings, the interventions, and/or corrective actions proposed.

2. Assignment of a monitor, master, or management team to address identified deficiencies paid for by the local school board or private provider if included in the contract.

3. Reduction in payment or withholding of state and/or federal funds.

(d) If the sanctions proposed in paragraph (10)(c) of this rule are determined by the Department of Education and DJJ to be ineffective in correcting the deficiencies in the educational program and improving the quality of the program, the State Board of Education shall have the authority to require further actions, which shall include:

1. Requiring the school board to revoke the current contract with the private provider, if applicable;

2. Requiring the school board to contract with the private provider currently under contract with DJJ for the

facility; or

3. Requiring the school board to transfer the responsibility and funding for the educational program to another school district.

(e) Each school district is responsible for ensuring that appropriate educational services are provided to students in the district's juvenile justice programs, regardless of whether the services are provided directly by the school district or through a contract with a private provider.

(11) Coordination. The cooperative agreement between the local school district and DJJ, required by Section 1003.51, F.S., shall be submitted to the Department of Education prior to the October, FTE Reporting Survey. The timelines and responsibilities, as required by Section 1013.53, F.S., for the notification by DJJ to the local school board of the siting of new facilities and the awarding of a contract for the construction or operation of such a facility shall be included in the agreement.

Rulemaking Authority 1003.51 FS. Law Implemented 1003.51, 1003.52 FS. History-New 4-16-00, Amended 5-19-08, 12-15-09.

#### **6A-6.05291 Course Modification.**

(1) Districts implementing approved comprehensive dropout prevention plans may, make modification to courses listed in the Course Code Directory as adopted by reference in Rule 6A-1.09441, FAC. Modifications in courses may take one or more of the following forms:

(a) The amount of in-class instruction required for a student to earn a credit may be lengthened or shortened. Less than one hundred fifty (150) hours may be offered for a particular course if it is determined that the essential content can be learned in a shorter period of time pursuant to the requirements of Section 232.2462, Florida Statutes. Students may be allowed to spend more than one hundred fifty (150) hours in a course if it is determined that additional time is needed. Instructional time must be sufficient to allow students to master curriculum frameworks and district adopted performance standards.

(b) Alternative methods for assessing student mastery of performance standards may be utilized in dropout prevention programs.

(c) Interdisciplinary units of study may be developed by combining two (2) or more courses of study.

(2) Course modification proposals must be approved by the Commissioner prior to implementation of the modification. These modifications shall be approved for programs that generate dropout prevention full-time equivalent student membership only.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.05292 Common Objective Criteria and Evaluation of Dropout Prevention Programs.**

(1) Common objective criteria. The following are the required objective criteria for the specific outcome objectives developed by the districts. Districts may include additional objectives.



- (a) Educational alternatives.
  1. Staying in school or earning a high school diploma.
  2. Academic improvement.
  3. Improved attendance.
  4. Promotion.
- (b) Teenage parent.
  1. Staying in school or earning a high school diploma.
  2. Continuation of academic program during placement in the teenage parent program.
  3. Improved parenting skills.
  4. Reduced repeat pregnancies.
  5. Improved numbers of babies with birth weights at or above 5.5 pounds.
- (c) Substance abuse.
  1. Staying in school or earning a high school diploma.
  2. Increased awareness of the hazards of substance abuse.
  3. Continuation of academic program during placement in substance abuse program.
  4. Decreased substance abuse.
- (d) Disciplinary.
  1. Staying in school or earning a high school diploma.
  2. Decreased number of expulsions.
  3. Decreased number of suspensions.
  4. Decreased number of referrals.
  5. Continuation of academic program during placement in disciplinary program.
- (e) Youth services.
  1. Academic assessment.
  2. Provision of appropriate educational services.

(2) Dropout prevention plan evaluation. Each district receiving state funding for dropout prevention programs through the Florida Education Finance Program shall submit an annual report and any interim reports required by the Legislature to the Department documenting the extent to which each of the individual dropout prevention programs has met the objectives established by the district. The district shall submit this evaluation as directed by the Department. Student outcomes shall be determined by comparing gains between preprogram baseline data and postprogram data. The data submitted in the annual report shall be collected by race, ethnicity and gender and include, but not be limited to performance data/student outcomes based on the state's minimum objective criteria.

Specific Authority 229.053(1), 230.2316(10) FS. Law Implemented 230.2316 FS. History - New 10-30-90, Amended 1-2-95.

#### **6A-6.054 K-12 Student Reading Intervention Requirements.**

(1) Elementary Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1008.25, F.S., any elementary student who exhibits a substantial deficiency in reading based upon locally determined assessments, statewide assessments, or through teacher observations must be given intensive reading instruction immediately following the identification of the reading deficiency. For elementary students not participating in the statewide reading

assessment, substantial deficiency in reading must be defined by the district school board. For students required to participate in the statewide assessment, a substantial deficiency in reading is defined by scoring Level 1 or Level 2 on the Florida Comprehensive Assessment Test 2.0 (FCAT 2.0) Reading. Students who exhibit a substantial deficiency in reading must be provided with additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction. Schools must progress monitor students with a reading deficiency a minimum of three (3) times per year. This includes a baseline, midyear, and an end of the year assessment.

(b) Immediate intensive intervention must be provided daily for all students who have been identified with a reading deficiency. This intervention must be in addition to or as an extension of the ninety (90) minute reading block in a smaller group size setting or one on one. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(2) Middle School Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1003.4156, F.S., middle school students who score at Level 1 on FCAT 2.0 Reading are required to complete an intensive reading course. Those students who score at Level 2 must be placed in an intensive reading course or a content area reading intervention course.

(b) Middle school students who score at Level 1 or Level 2 on FCAT 2.0 Reading and have intervention needs in the areas of decoding and/or text reading efficiency must have extended time for reading intervention. This extended time may include, but is not limited to, students reading on a regular basis before and afterschool with teacher support, or for students two or more years below grade level a double block of reading to accelerate foundational reading skills. The teacher must have the Reading Endorsement or Certification in Reading (Grades K-12). Teachers of sixth grade students may be certified in Elementary Education. In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration of Next Generation Sunshine State Standard (NGSSS) benchmarks specific to the subject area if blocked with the intensive reading course (biology, world history, etc.);
5. A focus on informational text at a ratio matching FCAT 2.0 Reading; and
6. Opportunities for accelerated achievement in order to facilitate efficient reading and deeper understanding of grade level texts.

(c) Districts must establish criteria beyond FCAT 2.0 Reading for placing students into different levels of in-



tensity for reading intervention classes to meet individual instructional needs of students. Districts must determine if students have an instructional need in decoding and text reading efficiency through the use of assessments and must identify benchmark criteria for placement of students requiring additional instructional time in reading intervention. Examples include data from screenings, progress monitoring and diagnostic assessments already in use in the district, as well as teacher recommendation. Schools must diagnose specific reading deficiencies of students scoring at Level 1 and Level 2 on FCAT 2.0 Reading.

(d) Districts may serve Level 2 students who do not need instruction in decoding and text reading efficiency in content area classes through a content area reading intervention. Teachers of these classes must complete the one hundred fifty (150) hour Content Area Reading Professional Development (CAR-PD) package, have the Reading Endorsement or Certification in Reading (Grades K-12), or complete the Next Generation Content Area Reading Professional Development (NGCAR-PD). In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the content area reading intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration of NGSSS benchmarks specific to the subject area (biology, world history, etc.);
5. A focus on informational text at a ratio matching FCAT 2.0 Reading; and
6. Opportunities for accelerated achievement in order to facilitate deep understanding of reading of grade level texts.

(e) Schools must progress monitor students scoring at Level 1 and 2 on FCAT 2.0 Reading a minimum of three (3) times per year. This includes a baseline, midyear, and an end of the year assessment.

(f) End-of-year assessments should be used to determine specific areas of student reading difficulty and reading intervention placement.

(g) One of the following courses as listed in the Course Code Directory incorporated in Rule 6A-1.09441, F.A.C., must be used to provide reading intervention to all middle school Level 1 students and those Level 2 students not being served through a content area reading intervention course (all courses require Reading Endorsement or Certification in Reading (Grades K-12):

1. 1000000 M/J INTENSIVE LANGUAGE ARTS
2. 1000010 M/J INTENSIVE READING
3. 1000020 M/J INTENSIVE READING & CAREER PLANNING
4. 1002181 M/J DEVELOPMENTAL LANGUAGE ARTS THROUGH ESOL (Reading)
5. 7810020 READING: 6-8

(3) High School Assessment, Curriculum, and Instruction.

(a) Pursuant to Section 1003.428, F.S., high school

students who score at Level 1 on FCAT 2.0 Reading are required to complete an intensive reading course. Those students who score at Level 2 must be placed in an intensive reading course or a content area reading intervention course.

(b) High school students who score at Level 1 or Level 2 on FCAT 2.0 Reading and who have intervention needs in the areas of decoding and/or text reading efficiency must have extended time for reading intervention. This extended time may include, but is not limited to, students reading on a regular basis before and afterschool with teacher support, or for students two or more years below grade level a double block of reading to accelerate foundational reading skills. The teacher must have the Reading Endorsement or Certification in Reading (Grades K-12). In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) must be adequate to implement the intervention course. This reading intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration of NGSSS benchmarks specific to the subject area if blocked with the intensive reading course (biology, world history, etc.);
5. A focus on informational text at a ratio matching FCAT 2.0 Reading; and
6. Opportunities for accelerated achievement in order to facilitate efficient reading and deeper understanding of grade level texts.

(c) Districts must establish criteria beyond FCAT 2.0 Reading for placing students into different levels of intensity for reading intervention classes to meet individual instructional needs of students. Districts must determine if students have an instructional need in decoding and text reading efficiency through the use of assessments and identify benchmark criteria for placement of students requiring additional instructional time in reading intervention. Examples include data from screenings, progress monitoring and diagnostic assessments already in use in the district, as well as teacher recommendation. Schools must diagnose specific reading deficiencies of students scoring at Level 1 and Level 2 on FCAT 2.0 Reading.

(d) Districts may serve Level 2 students who do not need instruction in decoding and text reading efficiency in content area classes through a content area reading intervention. Teachers of these classes must complete the 150 hour Content Area Reading Professional Development (CAR-PD) package, have the Reading Endorsement or Certification in Reading (Grades K-12), or complete the Next Generation Content Area Reading Professional Development (NGCAR-PD). In addition, these students must be served by teachers with evidence of success, as determined by the district. Classroom infrastructure (class size, materials, etc.) should be adequate to implement the content area reading intervention course. This intervention course should include on a daily basis:

1. Whole group explicit instruction;
2. Small group differentiated instruction;
3. Independent reading practice, utilizing classroom library materials, monitored by the teacher;
4. Integration of NGSSS benchmarks specific to the subject area (biology, world history, etc.);
5. A focus on informational text at a ratio matching FCAT 2.0 Reading; and
6. Opportunities for accelerated achievement in order to facilitate deep understanding of reading of grade level texts.

(e) Passing scores on FCAT 2.0 Reading and concordant scores on other assessments may not be used to exempt students from required intervention. In lieu of the provisions listed above, students in grades 11 and 12 who have met the graduation requirement with a Level 2 score on FCAT 2.0 Reading may be served through reading courses, content area courses without a specific professional development requirement, or before or after school.

(f) Schools must progress monitor students scoring at Level 1 and 2 on FCAT 2.0 Reading a minimum of three (3) times per year. This includes a baseline, midyear, and an end of the year assessment.

(g) End-of-year assessments should be used to determine specific areas of student reading difficulty and reading intervention placement.

(h) One of the following courses as listed in the Course Code Directory incorporated in Rule 6A-1.09441, F.A.C., must be used to provide reading intervention to all high school Level 1 students and those Level 2 students not being served through a content area reading intervention course (all courses require Reading Endorsement or Certification in Reading (Grades K-12) with the exception of 1001405 ENGLISH 4: FLORIDA COLLEGE PREP:

1. 1000400 INTENSIVE LANGUAGE ARTS
2. 1000410 INTENSIVE READING
3. 7910100 READING: 9-12
4. 1002381 DEVELOPMENTAL LANGUAGE ARTS THROUGH ESOL (Reading)
5. 7910400 LIFE SKILLS READING: 9-12
6. 1008350 READING FOR COLLEGE SUCCESS (For 11th and 12th grade students only)
7. 1001405 ENGLISH 4: FLORIDA COLLEGE PREP (For 12th grade students scoring at Level 2 on FCAT 2.0 Reading only)

Rulemaking Authority 1001.02(2), 1003.4156, 1003.428, 1008.25 FS. Law Implemented 1001.215, 1008.25, 1003.4156, 1003.428 FS. History-New 5-19-08, Amended 4-21-11, 5-21-13.

#### **6A-6.065 Instructional Components of Vocational Education.**

The comprehensive vocational education program shall be offered in components organized as follows:

(1) Instruction in grades 1 through 5 to familiarize pupils, including those considered to be disadvantaged or handicapped, with the world of work. Emphasis is placed on the relationship of the world of work to the ongoing instructional program.

(2) Instruction in grades 6 through 9 to pupils, includ-

ing those considered to be disadvantaged or handicapped, in the following areas:

(a) To provide occupational exploratory experiences, including technology education and vocationally oriented home economics.

(b) To provide direct job related instruction for potential school leavers and others if essential in meeting their educational needs.

(c) To assist students in planning a complete four (4) year program of secondary studies.

(3) Instruction in grades nine (9) through twelve (12) to pupils, including those considered to be disadvantaged or handicapped, in the following areas:

(a) To provide direct job related instruction, including registered preapprenticeship training, for pupils planning to graduate and for pupils who may leave school before graduation.

(b) To provide technology education for those planning to enroll in an advanced or highly skilled vocational or technical program at the postsecondary level.

(c) To provide instruction in vocationally oriented home economics.

(4) Instruction, including registered preapprenticeship training, at the postsecondary level to provide youth under nineteen (19) years of age who have completed high school or left school before high school graduation, who are unemployed and underemployed, including those considered to be disadvantaged or handicapped, with organized programs of instruction to prepare them for gainful employment.

(5) Instruction at the postsecondary level to provide persons nineteen (19) years of age and older, who have completed high school or left school before high school graduation, including those considered to be disadvantaged or handicapped, with organized programs of instruction, leading to a certificate or an associate degree in a community college to prepare them for gainful employment.

(6) Instruction at the adult level to provide training or retraining to ensure stability or advancement in employment to adults who have already entered the labor market and who are employed or seeking employment, including those considered to be disadvantaged or handicapped or vocational oriented home economics designed to prepare adults for the role of homemaker, or to contribute to the employability of such adults in the dual role of homemaker and wage earner.

(7) To provide appropriate special vocational education programming for disadvantaged and handicapped students at appropriate levels of education.

(8) To provide activities for students in vocational student organizations as an integral part of the instruction offered in components (2), (3), (4) and (5) above. When vocational student organization activities are conferences, workshops or meetings which require participating students to travel outside their home school district, each such activity shall be approved by the Director, Division of Applied Technology and Adult Education, Department of Education, and placed annually on a published calendar. All vocational student organization conferences, work-

shops or meetings requiring students to travel outside their home district shall comply with the following rules:

(a) One-day meetings shall be scheduled on any weekday or Saturday. Registration shall not begin before 8:00 a.m. on the date of the meeting.

(b) Two-day meetings shall be held on Thursday, Friday or Saturday except that registration may begin anytime after 6:00 p.m. on the day prior to the opening meeting.

(c) Three-day meetings shall be held on Thursday, Friday, Saturday or Sunday, except that registration may begin anytime after 6:00 p.m. on the day prior to the opening meeting.

(d) No meeting shall be scheduled for more than three (3) days.

(e) No students shall attend a meeting unless the school administration has made arrangement for their chaperonage by responsible adults.

(f) Any secondary school which permits unchaperoned students to participate in a vocational youth organization meeting without reporting the case and its circumstances to the Director, Division of Applied Technology and Adult Education, Department of Education, shall not be approved by the Director to participate in approvable activities for a period of up to one (1) year.

(g) No meeting shall be scheduled unless the sponsor has made adequate arrangements for housing and meeting spaces.

(h) When an unsatisfactory written report of any meeting is filed by the hotel or a participant with the Director, he or she may withhold further approval of meetings of the involved vocational student organization until, in his or her judgment, the situation has been resolved or will not reoccur.

(i) The Director may refuse a place on the published calendar of any vocational student organization activity if the organization fails to provide the information called for on the application form. Copies of the programs or agendas of the organization's meetings of the previous year are essential information which shall be filed with the application.

(j) The Division Director may assign dates other than those requested when, in the Director's opinion, the best interests of the entire vocational student organization program will be served.

(k) School principals or teachers shall not permit any student in their school or class to attend any vocational student organization meeting outside the student's home school district unless that meeting has been approved by the Director, Division of Applied Technology and Adult Education, Department of Education, and is sponsored or conducted by one (1) of the following organizations:

1. Cooperative Education Clubs of Florida.
2. Florida Association, Distributive Education Clubs of America.
3. Florida Association, Future Farmers of America.
4. Florida Association, Future Homemakers of America/Home Economics Related Occupations.
5. Florida Association of the Vocational Industrial Clubs of America.

6. Florida State Chapter, Future Business Leaders of America.

7. Florida State Chapter, Phi Beta Lambda.

8. Florida Association, Health Occupations Students of America.

9. Florida Technology Student Association.

10. Florida Association of Public Service Students.

Specific Authority 229.053, 233.068 FS. Law Implemented 228.041(22), 233.068 FS. History - New 8-18-71, Amended 9-17-72, 10-31-74, Repromulgated 12-5-74, Amended 5-4-76, Formerly 6A-6.65, Amended 8-12-91.

#### **6A-6.0713 Habitual Truancy: Inter-Agency Agreements.**

(1) Each district school board and the district office of the Department of Health and Rehabilitative Services shall develop a written agreement to include procedures to be followed by each of these agencies prior to filing with the circuit court a petition for dependency due to habitual truancy.

(2) The procedures shall include at least the following: All requirements of Section 232.19, Florida Statutes, identification of responsibilities for each agency, timeline for completing assigned responsibilities, and provisions for an annual review and necessary revisions of the procedures.

(3) The written agreement shall be approved by the local district administrator of the Department of Health and Rehabilitative Services or designee and the district school superintendent.

Specific Authority 229.053(1) FS., Section 18, Chapter 84-311, Laws of Florida. Law Implemented 39.01(33), 39.403, 232.19 FS. History - New 1-9-85, Formerly 6A-6.713.

#### **6A-6.0970 John M. McKay Scholarship for Students with Disabilities Program.**

The John M. McKay Scholarship for Students with Disabilities Program will be implemented as required by Section 1002.39, F.S., in an effective and equitable manner that will maintain the integrity of the program.

(1) Scholarship application procedure.

(a) To receive a McKay Scholarship the parent of a public school student must first request a scholarship by filing a notice of intent with the Department by fully completing an online application for a McKay Scholarship using the Department's website.

1. A school district, a private school, or the Department may assist a parent in filing the notice of intent.

2. A notice of intent must be filed before a student withdraws from public school and must include the student's: name, date of birth, current public school district, last attended public school, parent's name, telephone number, mailing address, and email address (if applicable).

3. Upon filing a notice of intent the parent shall receive immediate online filing confirmation including: a confirmation number, a notice of potential eligibility or ineligibility, and, if ineligible, reasons for the ineligibility and instructions on contacting the public school district to correct any errors in information that may have caused the ineligibility.

(b) After receipt of a notice of intent, the Department shall, in cooperation with the school district, determine the student's eligibility for a scholarship by verifying that the student:

1. Meets the prior school year in attendance definition in Section 1002.39(2)(a), F.S., or is exempt because he or she is a dependent child of a member of the United States Armed Forces who transferred to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders and such transfer occurred less than one (1) full academic year from the time the notice of intent was filed;

2. Filed a valid notice of intent; and

3. Meets one (1) of the following requirements:

a. Is a current public school student with a disability and has an individual education plan or a 504 accommodation plan, unless the accommodation plan has a duration of six (6) months or less; or

b. Is not a current public school student but filed a notice of intent while a public school student, and was a student with a disability and individual education plan or a 504 accommodation plan, unless the accommodation plan has a duration of six (6) months or less, at the time he or she left the public school.

(2) Public school McKay Scholarship option. Pursuant to Section 1002.39(5), F.S., a student meeting the McKay eligibility requirements may choose to attend another public school in the student's school district or in an adjacent school district.

(a) The McKay Scholarship public school options available are determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

(b) Pursuant to Section 1002.39(4), F.S., the parent of a student receiving a McKay Scholarship to attend a private school may upon giving notice choose to exercise the public school McKay option.

1. Notice shall be no less than thirty (30) days prior to entering the public school, unless agreed to by the school district.

2. Notice shall be given to the Department and the school district through use of the Department's website.

3. Public school options are still determined by the school district and may be subject to both capacity limitations and the ability of the public school to provide the required services for the individual student.

4. After exercising the educational choice described in this paragraph, a student seeking to reenter a private school under the McKay Scholarship must re-establish initial eligibility requirements including the prior year public school attendance requirement.

(3) Term of McKay Scholarship. Pursuant to Section 1002.39(4)(a), F.S., a McKay Scholarship remains in effect until one of the following occurs. The student:

(a) Returns to a public school. A return to public school is the enrollment of a McKay Scholarship student in a public school or public school program.

1. For purposes of this paragraph, a public school or public school program is one in which students are re-

ported for funding through the Florida Education Finance Program.

2. Notwithstanding subparagraph (3)(a)1., the following situations are not a return to public school:

a. Admission to a residential hospital for medical reasons.

b. Entry into a Department of Juvenile Justice detention center for a period of no more than twenty-one (21) days.

c. Entry into a public school for a period of less than thirty (30) days pursuant to placement by or while in the custody of the Department of Children and Family Services.

d. Completion of virtual school classes if limited to no more than two (2) courses per year.

e. Completion of dual enrollment or adult education courses that are not funded through the Florida Education Finance Program.

(b) Graduates from high school. The student may continue in the program until such time as he or she receives a GED, standard diploma, or the private school's equivalent. Certificates of completion or attendance do not constitute graduation from high school for purposes of this paragraph.

(c) Reaches the age of twenty-two (22). The student may complete the school year in which he or she reaches the age of twenty-two (22).

(4) Matrix of services.

(a) A matrix of services developed for purposes of the McKay Scholarship Program shall be consistent with the services described in the student's individual education plan at the time the student withdraws from the public school. The student's matrix of services may not be changed by the Department and may only be changed by the school district, pursuant to Section 1002.39(5)(b)2.c., F.S., to correct a technical, typographical, or calculation error.

(b) The process for development of a matrix of services for a student with a disability who is a dependent child of a member of the United States Armed Forces transferring from another state or country pursuant to the parent's permanent change of station orders shall be expedited as follows:

1. Upon receipt of the parent's notice of intent, the Department shall provide the parent's contact information to the appropriate school district.

2. The school district shall contact the parent and arrange for the student's current individual education plan to be submitted to the school district to develop a matrix of services. The parent will be responsible for providing the school district with a copy of the student's current individual education plan.

3. The school district shall have fifteen (15) days from receipt of the student's individual education plan to develop a matrix of services and communicate that information to the Department.

4. If the district is unable to complete the matrix of services within the fifteen (15) days required by this rule, the calculation shall be made as provided for in Section 1002.39(10)(a)4., F.S., until such time as the matrix of



services is completed.

5. A matrix of services developed pursuant to this paragraph shall be developed by school district personnel responsible for developing a matrix of services required by Section 1011.62(1)(e), F.S.

(5) Scholarship payments. The following provisions detail information related to scholarship payments including timeframes, eligibility, and Departmental procedures.

(a) Scholarship payments will be made on or before September 1, November 1, February 1, and April 1 of each year. For purposes of statutory deadlines associated with payment dates, the above listed dates shall be considered the official payment dates.

(b) The following payment periods are established for administration of the scholarship payments:

Payment	Payment Period
September 1	July 1 - September 30
November 1	October 1 - December 31
February 1	January 1 - February 28
April 1	March 1 - June 30

(c) The following requirements must be met to qualify for a scholarship payment:

1. The notice of intent, described in subsection (1) of this rule, must be filed sixty (60) days before the first scholarship payment. This is a one-time requirement that applies to scholarship students entering the program for the first time, and no payment can be earned until such time as the notice requirement has been met.

2. A student must have an enrollment date thirty (30) days before the first scholarship payment is made. The submission of the school and student fee schedules are required to establish the enrollment date and are completed using the Department's website. A student that changes private schools after meeting the enrollment date requirement may still qualify for payment for that payment period.

3. Prior to receiving a scholarship payment, all parents of participating students must have on file with the Department Form IEPC-AFF1, Affidavit, signed and notarized affirming the validity of the parent's signature. Form IEPC-AFF1 is hereby incorporated by reference in this rule to become effective with the effective date of this rule and may be obtained from the Department's website at <http://www.floridaschoolchoice.org/>.

4. A student must not be enrolled in a public school or violate any of the prohibitions found in Section 1002.39(3), F.S.

5. The private school must verify each student's continued enrollment and attendance using the Department's website three (3) times per year before the November, February, and April scholarship payments. Failure to verify a student's continued enrollment and attendance will result in a delayed payment until the next payment period. To receive payment at that time, the private school must verify student attendance for the delayed payment's payment period and, if the student is still enrolled in the program, for the current payment period.

(d) Private schools are responsible for the return of all scholarship funds to the Department that were received in error, including: for students that were not

in attendance, or for services listed on a student's fee schedule that were not provided. If the Department identifies scholarship funds that should be returned, it shall send a letter via both regular and certified mail requesting the return of the funds. The letter shall state the reason the funds are being requested, the student or students involved, instructions on returning the funds, and the procedure to be followed if the private school believes that return of the funds is being requested in error or wishes to provide additional information related to the requested funds. The Department's letter may also require the school to provide an explanation for how the private school claimed funds that were erroneously obtained.

1. Private school shall respond to such letter within thirty (30) days by either returning the funds or detailing in writing why its retention of the funds is proper.

2. If the Department receives a letter detailing why the funds were properly retained, it shall determine whether the explanation is sufficient and thereafter alert the private school to any funds still due and a timeframe for the return of those funds. The response shall give the private school or parent at least twenty (20) additional days to repay the funds.

3. Failure to return the funds due back to the Department, or failure to provide a sufficient explanation for how the school claimed funds that were erroneously obtained, within the time period allotted in subparagraphs (5)(d)1. and 2. of this rule, shall result in the initiation of noncompliance procedures pursuant to the Commissioner's authority described in Section 1002.39(7), F.S., and this rule. If the Commissioner has suspended a private school's participation in the program pursuant to Section 1002.39(7), F.S., in order to ensure that scholarship payments are received on the scheduled payment date, any funds requested by the Department must be received at least twenty (20) days prior to the scheduled quarterly payment date. Otherwise scholarship payments will be delayed until the subsequent scholarship payment date.

(e) Where a scholarship student attends multiple private schools or a private school and the public school in the same payment period, the right to retain the scholarship payment shall be given to the first private school the student attends for ten (10) or more school days during that payment period. If the student does not attend a private school for at least ten (10) days and attends a public school, then the funding generated, if any, shall be retained by the school district and no scholarship payment shall be generated.

(f) To ensure proper administration of scholarship funds, all claims by private schools for missed scholarship payments must be made by June 1 of the fiscal year in which the scholarship payment was originally due.

(6) Private school participation. To participate in the John M. McKay Scholarship for Students with Disabilities Program, a school must:

(a) Register its intent to participate in the scholarship program with the Department using the Department's website;

(b) Complete the annual survey of private schools re-



quired by Section 1002.42(2), F.S., using the Department's website, and submit it to the Department in both an electronic format and by mail. The survey that is mailed to the Department must include a notarized statement verifying that the private school owner has complied with the background check requirements of Section 1002.42(2)(c), F.S.

(c) Annually meet all scholarship compliance requirements for private schools pursuant to Rule 6A-6.03315, F.A.C.

(d) Continue to adhere to all statutory and rule requirements after determined eligible to participate in the program.

(7) Commissioner's duties. The Commissioner may deny, suspend, or revoke a private school's participation in the scholarship program pursuant to Section 1002.39(7), F.S.

(a) If the Commissioner issues a notice of noncompliance:

1. Private schools shall be given a reasonable period from the date of the notice, as determined by the Commissioner, to demonstrate compliance.

2. The notice shall state the reasons for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the Commissioner.

3. The private school's participation status shall be unaffected by the above notice of noncompliance process.

(b) If the Commissioner issues a notice of proposed action denying, suspending, or revoking a private school's participation:

1. The notice shall state the reasons for the action and specify the private school's right to appeal.

2. The private school's participation status shall be unaffected until the proposed action becomes final and all relevant appeals have expired.

(c) If the Commissioner immediately suspends payment of scholarship funds:

1. The Commissioner shall issue a notice of proposed action suspending payment of scholarship funds to the private school;

2. The notice shall state the reasons for the suspension and the rights the private school has to appeal; and

3. The private school's participation status will be adjusted so that it will be unable to receive payments or utilize the Department's website and its functionalities to participate in the scholarship program in any way.

(8) Complaint process. The following process is established to allow individuals to notify the Department of any violation by parents, private schools, or school districts of laws or rules related to scholarship program participation.

(a) Persons interested in filing a complaint should contact the Department through the toll-free hotline, established pursuant to Section 1002.39, F.S., or through the Department's website.

(b) An initial complaint shall include, at a minimum, the complainant's name, phone number, and address, and details of the situation.

(c) After receipt of the initial complaint, the Department shall offer to provide a formal complaint form to

the complainant.

(d) To register a formal complaint, the complainant must complete the formal complaint form, sign it, and mail or fax it to the Department within thirty (30) days of making the initial complaint.

(e) Upon receipt of a formal complaint, the Department shall review the complaint for legal sufficiency. If the complaint is legally sufficient, the Department shall conduct an inquiry, as described in subsection (9) of this rule, or refer the matter to the appropriate agency for investigation. If the complaint is not legally sufficient, the Department may close the complaint.

(f) The Department shall notify the complainant of the final result of all legally sufficient formal complaints.

(9) Inquiry process. If an inquiry is made as to the conduct of an individual or entity participating in the program:

(a) A letter of inquiry will be delivered using regular and certified mail that alerts the individual or entity to the inquiry and provides the opportunity to respond. The letter of inquiry shall detail any alleged violations of program rules or law, the response required, any documentation requested, and the deadline for responding to the Department.

(b) Failure to respond to a letter of inquiry in a timely manner by:

1. A parent, then the Department shall determine the effect on student eligibility.

2. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.39(7), F.S., and this rule.

3. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, the student, or private school as appropriate.

(c) The Department shall review the response to the letter of inquiry and:

1. If satisfied that no violation of laws or rules related to scholarship program participation occurred, notify the parent, private school, or school district and complainant that the inquiry will be closed.

2. If more information is needed, request additional information related to the inquiry from the complainant, parent, private school, school district, or conduct a site audit/inspection as appropriate.

3. If a violation of laws or rules related to scholarship program participation has been committed by:

a. A parent, then the Department shall notify the parent of any violation of laws or rules committed and any effect it will have on student eligibility.

b. A private school, then the Department shall proceed with the noncompliance procedures related to the Commissioner's authority established pursuant to Section 1002.39(7), F.S., and this rule.

c. A school district, then the Department shall take any actions allowable under law to compel school district compliance with program requirements and to ameliorate the effect of the violation on the parent, student, or

private school as appropriate.

(d) The Department may at any point in the process set forth in this rule, refer an inquiry to the Department's Office of Inspector General or another appropriate agency for full investigation.

(e) Notwithstanding any other provision of this rule, the Commissioner may at any point before or during the inquiry process exercise the authority given under Section 1002.39(7), F.S., and this rule.

Rulemaking Authority 1002.39(13) FS. Law Implemented 1002.39 FS. History-New 1-18-07, Amended 4-21-09, 11-12-09, 2-28-12.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-7

### Special Programs II

#### **6A-7.0335 Regional Centers for Implementing Services to Individuals with Autism, Pervasive Developmental Disorders, Autistic-like Disabilities, Dual Sensory Impairments, or Sensory Impairment with Other Disabling Conditions.**

(1) Eligibility. Individuals of all ages with significant communication or significant behavior problems are eligible for regional center services if an individual has been diagnosed as having autism, pervasive developmental disorder, autistic-like disability, dual sensory impairment, or sensory impairment with other disabling conditions. The centers shall verify the disabling condition(s) of the individual. Such verification may consist of the most recent information from state and local agencies and individuals, and may include, but not be limited to, medical and psychological records. However, the center shall not defer services to the individual and family while awaiting receipt of such information.

(2) Direct services. The primary focus of the regional centers is to provide individualized, direct assistance to individuals and their families who are eligible under this rule. These services shall include nonresidential assistance; outreach programs to school districts, families, and agencies; dissemination of referral and resource information; and professional training materials and programs.

(3) Regional center plan. Each center shall prepare and submit, for approval by the Department, a project plan for services to include:

(a) Project description. A description of the project shall include the following components:

1. A staffing plan with, as a minimum, individuals with expertise in autism or autistic-like behaviors and individuals with expertise in sensory impairments;

2. A direct service plan that shall address individual and family assistance in the home, community, and school. A regional center shall not supplant responsibilities of other state and local agencies. Each school district shall be responsible for providing appropriate educational services for clients of a center who are school age;

3. A technical assistance and consultation services plan for providing specific intervention and assistance, utilizing all available community resources, to clients of the regional center, the clients' family, school districts, and other service agencies and individuals as appropriate;

4. A professional training program plan that includes developing, providing, and evaluating preservice and inservice training in state-of-the-art practices for personnel who work with the populations served by the regional centers and their families; and

5. A public education plan to increase awareness of the public about autism, autistic-like disabilities of communication and behavior, pervasive developmental disorders, dual sensory impairments, and sensory impairments with other handicapping conditions.

(b) Coordination of services. The regional center plan shall include a description of coordination of services

with other regional centers, other state agencies, school districts, private providers, and other entities, as appropriate. The plan shall also include a description of how the center will interface with the medical community to ensure the appropriate use of medical consultation in the provision of services.

(c) Coordination with constituency boards. Each regional center plan shall include a description of its working relationship with and support of the constituency board, as defined in Section 393.0697, Florida Statutes. It shall be the responsibility of the center director to communicate regularly with the chair of the constituency board on issues affecting the operation and delivery of services by the center.

(d) Review of plan. Each center director shall submit the regional center plan to the appropriate constituency board for review and comment.

(4) Referral. Referrals are requests for assistance (e.g., training, consultation) for a particular individual. Referrals may be made by any person (e.g., family member; teacher; administrator; appropriate persons in the Departments of Education, Health and Rehabilitative Services, Labor and Employment Security; providers of services for those departments; or the identified individual) who is responsible for or involved with the individual. In order for the centers to provide direct assistance, including program planning and direct consultation, the individual or the individual's family or legal guardian must provide a request or consent for such assistance. A preliminary screening will be conducted to determine eligibility. If the individual referred meets the eligibility criteria, assistance will be provided by the regional center within available resources. If the individual referred does not meet the eligibility criteria, the referred individual will be matched with alternative services. The centers will respond to three (3) basic referrals and requests within available resources:

(a) Crisis. Referrals for immediate assistance for individuals with severe problematic behaviors and potentially dangerous or abusive situations.

(b) Seeking resources and information. Referrals made by families, educators, and staff or providers to state departments and other agencies who are involved in identifying all avenues of support and assistance available to them. This may include specific identified areas of concern that are other than a crisis situation.

(c) Specific requests for training, assistance, or materials. Requests for specific assistance from a family or family member, state agency, school district, or a private provider requesting inservice training for a particular topic area.

(5) Constituency boards. Each regional center shall have a constituency board of no fewer than six (6) members who are selected by each university president from a list that has been developed by the Autism Society of Florida and other relevant constituency groups that

represent individuals as defined in Subsection (1) of this rule. This board shall meet quarterly with the center staff to provide advice on policies, priorities, and activities. Each board shall elect a chairperson and secretary. It shall be the responsibility of the chairperson to communicate regularly with the regional center director on pertinent issues affecting the operation and delivery of services by the center. Each board member shall be appointed for a three (3) year term, with two (2) members being appointed each year. The initial term rotation will be determined by lot, with one-third of the members serving for one (1) year, one-third of the members serving for two (2) years, and one-third of the members serving for three (3) years. A board member may serve for only two (2) consecutive full terms, but shall continue to serve until his/her successor is named. Whenever possible, the appointment of a new member shall be from the same constituency group as the member retiring from the board. The procedure for appointing an individual to fill an unexpired term is the same as that used to make regular appointments. Members of the constituency boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in Section 112.061, Florida Statutes. Payment may be authorized for pre-approved expenses such as mailing, telephone, or photocopying. Chairs of the constituency boards shall meet twice a year to coordinate board activities. One of these meetings shall be with regional center staff to plan the annual conference and the other meeting shall be at the conference. Each constituency board, after review and comment from regional center staff, shall submit by September 1 to the respective university president and the Department an annual report that evaluates the activities and accomplishments of its center during the preceding year.

(6) Annual conference. To promote statewide planning and coordination, an annual conference shall be held for staff from each regional center and representatives from each center's constituency board. This conference shall include networking opportunities, cross-training, and feedback among staff and constituency board representatives. The conference shall be open to the public.

(7) Census. Each regional center will be responsible for gathering information for the statewide census of individuals who are eligible for services of these centers. Census information will include: county, date of birth, sex, disabling conditions which make the individual eligible for center services, and other information determined by the centers as necessary to maintain an accurate census.

(8) Reporting. Each regional center, after review and comment by the appropriate constituency board, shall submit to the Department by September 1 an annual report which shall include the following:

(a) The number of individuals served, the type of disability served, and the type and extent of services offered to the individuals;

(b) The type of training offered to regional center staff, constituency board members, and individuals and the total number by category of individuals trained.

(9) Budget. Each regional center staff shall submit to

its university and the Department an annual budget which has been reviewed by its constituency board. The budget shall reflect the service component of the centers. Line items for travel shall represent necessary travel to provide or coordinate services and training. Equipment and research budget items shall be limited to those amounts necessary to support the service component of the center.

Specific Authority 229.053(1), 393.0697(5) FS. Law Implemented 393.0697 FS. History-New 10-18-94.

#### **6A-7.099 Challenge Grant Program for the Gifted.**

(1) The purpose of the Challenge Grant Program for the Gifted shall be to encourage public schools to implement exemplary programs which challenge gifted students.

(2) As provided by Section 236.1225(2), Florida Statutes, the Commissioner shall cooperate and consult with associations and organizations concerned with the education of the gifted in administering this grant program. Such associations and organizations shall include at least the Florida Association for the Gifted and the Florida Federation Council for Exceptional Children.

(3) Annually the Commissioner shall invite district school boards to submit a program proposal consistent with the requirements of Section 236.1225, Florida Statutes. The proposals shall be judged by the following criteria:

(a) The proposed program will improve the quality of existing programs;

(b) The proposed program will initiate a model or demonstration program; or

(c) The proposed program will expand student participation in existing programs.

(4) Each project funded shall, as provided by Section 236.1225(3)(d), Florida Statutes, contain provisions for the submission of an evaluation of the program and shall meet all requirements of law.

Specific Authority 229.053(1), 230.23(4)(m), 236.1225 FS. Law Implemented 236.1225 FS. History - New 1-6-83, Amended 5-3-83, Formerly 6A-7.99.



# Florida State Board of Education Rules Pertaining to Special Programs

## Chapter 6A-20

### Student Financial Assistance

#### **6A-20.012 Critical Teacher Shortage Tuition Reimbursement Program.**

(1) To receive aid, teachers shall meet the provisions of Section 1009.58, F.S., and Rule 6A-20.001, F.A.C., and:

(a) Submit, Form FFAA-2, Florida Financial Aid Application for Teachers, Form CPSI-1, Postsecondary Institution Certification, and Form CEMP-1, Employment Certification Form by September 15. Forms FFAA-2, CPSI-1, and CEMP-1 are hereby incorporated by reference and made a part of this rule to become effective with the effective date of this rule. A copy of Forms FFAA-2, CPSI-1, and CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Have as a minimum a valid temporary Florida teacher's certificate or license.

(c) Intend to gain or renew certification, or to earn a graduate degree, in a designated critical teacher shortage area.

(d) Not receive reimbursement from other sources sufficient to pay the full cost of tuition and registration fees for a course(s) for which reimbursement is being sought.

(e) Not owe a repayment of a grant received under the Pell Grant, Supplemental Educational Opportunity Grant, or any state scholarship or grant program.

(f) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay the loan have been made.

(2) By January 1 of each year, the Department shall distribute to Florida publicly funded school district superintendents applications and a description of the program and application process utilizing the State Student Financial Aid Database.

(3) Publicly funded schools shall be responsible for providing teachers with information regarding the Tuition Reimbursement Program and the necessary forms.

(4) An applicant may receive aid for a maximum of nine (9) credit hours during a period beginning with the fall term and ending with the close of the summer term.

(5) Award procedures. The Department shall determine eligibility and may prorate awards if funds are not available to make full awards.

(6) Payment of awards. The Department shall notify applicants of their award eligibility and shall provide for the delivery of funds to eligible applicants on a funds available basis.

Specific Authority 1009.58(2) FS. Law Implemented 1009.58 FS. History-New 5-24-84, Formerly 6A-7.163, 6A-7.0163, Amended 12-25-86, 3-22-89, 3-6-94, 10-15-02, 9-22-08.

#### **6A-20.013 Critical Teacher Shortage Student Loan Forgiveness Program.**

(1) Eligibility criteria for initial awards. To receive aid, an initial applicant shall meet the provisions of Section 1009.59, F.S., and shall:

(a) Have, as a minimum in the first year of application, a valid temporary Florida Educator's Certificate or license which indicates certification or licensure with an issue date prior to the beginning of the school year. The Department of Education may accept a certificate issue date during the first year of teaching providing it validates the first academic year of employment in the critical teacher shortage subject area in which the teacher is employed;

(b) Have taught a full school year, as defined in Section 1003.02(1)(g), F.S., in a Florida publicly-funded school or developmental research school, in a designated critical teacher shortage subject area. If an otherwise eligible applicant completes eligible teaching service for at least ninety (90) days during a school year and does not complete one (1) full year of teaching service, the Department may provide up to one-half of a full award;

(c) Not owe a repayment of a state or federal student grant or scholarship unless satisfactory arrangements have been made;

(d) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay the loan have been made;

(e) Not have received a Paul Douglas Teacher Scholarship, Critical Teacher Shortage Scholarship Loan, "Chappie" James Most Promising Teacher Scholarship Loan, Masters' Fellowship Loan Program for Teachers, or Critical Teacher Shortage Forgivable Loan under the Florida Teacher Scholarship and Forgivable Loan Program; and

(f) Submit by July 15:

1. After the end of the academic year in which the applicant taught for the first time as a full-time certified teacher in a critical teacher shortage subject area for at least ninety (90) days, Form FFAA-2, Florida Financial Aid Application for Teacher Program, as incorporated by reference in Rule 6A-20.012, F.A.C.,

2. An academic transcript from each postsecondary educational institution which the applicant attended in order to complete an education program,

3. Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, F.A.C., and

4. Form CLON-1, Loan Certification, which is hereby incorporated by reference in this rule to become effective with the effective date of this rule. A copy of Form FFAA-2, Form CEMP-1, and Form CLON-1 may be obtained by contacting the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(2) Eligibility criteria for renewal awards. Eligibility for renewal shall be evaluated at the end of the renewal year of teaching. As a condition for renewal, a teacher shall meet the provisions of Section 1009.59, F.S., and shall:

(a) Have, each academic year, a valid Florida Educator's Certificate or license which indicates certification or licensure in the subject area for which an initial award was made or in a current critical teacher shortage subject area for the academic year for which funds are being requested;

(b) Have taught a full school year in a Florida publicly-funded school, or developmental research school, in the subject area for which the original loan repayment was made or in a current critical teacher shortage area in which the applicant is certified. If an otherwise eligible renewal applicant completes eligible teaching service for at least ninety (90) days and does not complete a full year of teaching service, the Department may provide up to one-half of a full award;

(c) Not owe a repayment of a grant received under the Pell Grant, Supplemental Educational Opportunity Grant, or any state grant or scholarship program;

(d) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan program, unless satisfactory arrangements to repay have been made;

(e) Not have received a Paul Douglas Teacher Scholarship, Critical Teacher Shortage Scholarship Loan, "Chap-  
pie" James Most Promising Teacher Scholarship Loan, Masters' Fellowship Loan Program for Teachers, or Critical Teacher Shortage Forgivable Loan under the Florida Teacher Scholarship and Forgivable Loan Program; and

(f) Submit by July 15 of each academic year, Form CEMP-1, Employment Certification.

(3) The Department shall distribute to Florida publicly funded school district superintendents applications and a description of the program and application process utilizing the State Student Financial Aid Database.

(4) Publicly funded schools shall be responsible for providing teachers with information regarding the Tuition Reimbursement Program and the necessary forms.

(5) Amount of award. The annual amount of student loan repayment shall be a maximum of twenty five hundred (2,500) dollars for undergraduate loans and a maximum of five thousand (5,000) dollars for graduate loans for up to a combined total of five thousand (5,000) dollars annually. The amount of the award is based on the principal balance outstanding on the applicant's loan as of the June 30 prior to the beginning date of teaching as a certified teacher in a critical teacher shortage subject area.

(6) Maximum terms of eligibility. A teacher shall be eligible to receive student loan forgiveness for either a maximum of four (4) academic years or a total repayment of ten thousand (10,000) dollars, whichever comes first.

(7) Award procedures. The Department shall determine eligibility and make awards. Awards may be prorated

if funds are not available to make full awards. Renewal applicants will be given priority upon timely receipt of all required forms and documentation. The Department shall notify applicants of their award eligibility.

(8) Payment of awards. The Department shall provide for the delivery of funds to teachers by issuing warrants made payable to the teachers and the lending institutions for all loans held by lending institutions. The Department will forward the warrants to the teachers for submission to the lending institutions; however, a teacher who submits documentation from all lenders that all principal balances which were due as of the June 30 prior to the beginning date of teaching, or additional educational loans accrued prior to the beginning date of teaching, pursuant to subparagraph (1)(f)1. of this rule, have been paid by the teacher may have the warrant made payable directly to the teacher. If the loan was a National Direct Student Loan, National Defense Loan, or Perkins Loan, each lending institution must also indicate that the repayment was not a result of teaching service cancellation.

Specific Authority 1001.02(1), 1009.59(4) FS. Law Implemented 1009.59 FS. History-New 5-24-84, Formerly 6A-7.162, 6A-7.0162, Amended 12-25-86, 3-22-89, 5-16-90, 2-15-95, 10-15-02, 9-22-08.

#### **6A-20.025 Grants for Teachers for Special Training in Exceptional Student Education.**

(1) Eligibility criteria. To be eligible to receive a tuition reimbursement grant for special training in exceptional student education, the applicant shall:

(a) Hold a full-time contract to teach in a district school system, a state operated or a state supported program, or an agency or organization under contract with the Department.

(b) Hold a valid Florida educator's certificate that does not reflect an exceptional student education coverage or endorsement which is appropriate for the assignment.

(c) Complete specialization course(s) needed for certification in the area in which he or she is assigned to teach with a minimum grade of 3.0 on a 4.0 scale.

(d) Submit completed Form FFAA-2, Florida Financial Aid application for Teachers, Form CPSI-1, Postsecondary Institution Certification, and Form CEMP-1, Employment Certification as incorporated by reference in Rule 6A-20.012, FAC. These forms may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(2) Review agency. Pending review of the application by the Department of Education, the applicant shall receive notification of award eligibility.

(3) Reimbursement. Eligible applicants may receive tuition reimbursement not to exceed nine (9) semester hours, or the equivalent quarter hours, per term. Reimbursement shall be at a rate consistent with that established for programs authorized by Section 240.4064, Florida Statutes. No special fees charged by the universities or colleges shall be included in the payment to a recipient nor shall payments be made if tuition has been paid, waived or assumed, in full, through other sources.

For each fiscal year, grants are awarded to the extent of funds appropriated for this program. Awards may be prorated if funds are not available to make full awards.

(4) Fiscal agency. The Office of Student Financial Assistance, Department of Education, upon receipt of eligible applicants, shall provide for payment of eligible applicants to the extent of funds appropriated for the program.

Specific Authority 229.053(1), 240.405(4) F.S. Law Implemented 240.405 F.S. History - New 4-13-87, Amended 3-6-94, 10-15-02.

#### **6A-20.040 Occupational Therapist or Physical Therapist Tuition Reimbursement Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) Eligibility requirements. To receive aid, therapists shall meet the provisions of Sections 240.6071 and 240.6075, Florida Statutes, and Rules 6A-20.001 and 6A-20.0371 FAC., and:

(a) Submit by September 15, Form FFAA-3, Florida Financial Aid Application for Occupational/Physical Therapists, which is hereby incorporated by reference in this rule to become effective October 2002, Form CPSI-1, Postsecondary Certification, and Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Forms FFAA-3, CPSI-1, and CEMP-1, may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Have, at minimum, a valid temporary Florida permit as a therapist from the Department of Health.

(c) Be employed as a therapist full-time in a Florida publicly-funded school as defined in Section 228.041, Florida Statutes, and have been employed as such for a minimum of three (3) years.

(d) Have completed a course intended to improve professional skills or knowledge at a state university or community college, or any Florida college or university which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(e) Not receive reimbursement from other sources sufficient to pay the full cost of tuition and registration fees for a course(s) for which reimbursement is being sought.

(f) Earn a minimum grade of 3.0 on a 4.0 scale, or its equivalent, in course for which tuition reimbursement is sought.

(g) Not owe a repayment of a federal grant or any state grant or scholarship program unless satisfactory repayment arrangements have been made.

(h) Not be in default on a National Defense Loan, Perkins National Direct Loan, Guaranteed Student Loan, Federally Insured Student Loan, Parent Loans for Undergraduate Students, Auxiliary Loans to Assist Students, or any state loan programs, unless satisfactory repayment arrangements have been made.

(i) Not have received a Critical Occupational Thera-

pist or Physical Therapist Shortage Scholarship Loan or participated in the Critical Occupational Therapist or Physical Therapist Shortage Loan Forgiveness Program.

(3) Application distribution. By October 15 of each year, the Department shall distribute a description of the program and the application process utilizing the State Student Financial Aid Database to Florida publicly-funded school district superintendents. The publicly-funded schools shall be responsible for providing eligible employees with information regarding the program and the necessary forms.

(4) Award procedures. The Department shall make awards after the application deadline. Awards may be prorated based on the number of eligible applicants. An applicant may receive aid for a maximum of nine (9) credit hours during a period beginning with the fall term and ending with the close of the summer term, for a maximum of seventy-eight (78) dollars per credit, for up to a total of thirty-six (36) credits. The Department shall notify applicants of their award eligibility and shall provide for the delivery of funds to eligible applicants on a funds available basis.

(5) Appeals. An applicant may appeal under the terms of Sections 240.404 and 240.4042, Florida Statutes, and Rule 6A-20.0371, FAC.

Specific Authority 240.6072(3) FS. Law Implemented 240.4042, 240.6071, 240.6072, 240.6075 FS. History - New 2-18-93, Amended 10-15-02.

#### **6A-20.041 Occupational Therapist or Physical Therapist Student Loan Forgiveness Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) Eligibility requirements. To receive aid, an applicant shall meet the provisions of Sections 240.6071 and 240.6073, Florida Statutes, and Rules 6A-20.001 and 6A-20.0371, FAC., and:

(a) If an initial applicant, submit Form FFAA-3, Florida Financial Aid Application for Occupational/Physical Therapists, as incorporated by reference in Rule 6A-20.040, FAC., by July 15 after the end of the academic year in which the applicant worked for the first time as a full-time licensed occupational therapist or therapy assistant or as a licensed physical therapist or therapist assistant for at least ninety (90) days in a Florida publicly-funded school as defined in Section 228.041, Florida Statutes. A copy of Form FFAA-3 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Submit an academic transcript from each post-secondary educational institution which the applicant attended in order to complete their education by July 15.

(c) Submit by July 15, Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Form CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(d) If an initial applicant, submit by July 15 of the first year of full-time employment as a therapist in a Florida public school, Form CLON-1, Loan Certification, as incorporated by reference in Rule 6A-20.013, FAC. A copy of Form CLON-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(e) Have, at minimum, a valid temporary Florida permit as a therapist from the Department of Health.

(f) Declare an intent to be employed for a minimum of three (3) years as a licensed therapist in a Florida publicly-funded school.

(g) Have been employed as a therapist in a Florida publicly-funded school for a full school year. A school year shall be a minimum of one hundred eighty (180) days during the period in which schools are regularly in session, or the equivalent as defined in Section 228.041(16), Florida Statutes. If an otherwise eligible applicant completes eligible employment service for at least ninety (90) days during a school year but does not complete one (1) full year of employment, the Department may provide up to one-half of a full award.

(h) Not owe a repayment of a federal grant or any state grant or scholarship program unless satisfactory repayment arrangements have been made.

(i) Not be in default on a loan made under any federal Title IV loan program or any state loan program unless satisfactory repayment arrangements have been made.

(j) Not have received a Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan or participated in the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(3) Appeals. An applicant may appeal decisions of ineligibility due to errors made by the Office of Student Financial Assistance under the terms of Rule 6A-20.0371, FAC.

(4) Amount of award. The annual amount of student loan repayment shall be a maximum of twenty-five hundred (2,500) dollars for undergraduate loans and a maximum of five thousand (5,000) dollars for graduate loans for up to a combined total of five thousand (5,000) dollars annually. The amount of the award is based on the principal balance outstanding on the applicant's loan as of June 30 prior to the beginning date of full-time employment as a therapist in a Florida publicly-funded school.

(5) Maximum terms of eligibility. Eligible OTs and PTs may receive student loan forgiveness for a maximum of four (4) academic years or a total of ten thousand (10,000) dollars, whichever comes first. Eligible OTAs and PTAs may receive student loan forgiveness for a maximum of two (2) academic years or a total of five thousand (5,000) dollars, whichever comes first.

(6) Award procedures. The Department shall determine eligibility and make awards. Awards may be prorated based on the number of eligible applicants. Renewal applicants will be given priority upon timely receipt of all required forms and documentation. The Department shall notify applicants of their award eligibility.

(7) Payment of award. The Department shall provide for the delivery of funds to a therapist by issuing a

warrant made payable to the therapist and the lending institution. If the therapist has more than one lender, the largest loan will be paid first. The Department will forward the warrant to the therapist for submission to the lending institution. However, a therapist who submits documentation from all lenders that all principal balances which were due as of June 30 prior to the beginning date of full-time employment in a Florida publicly-funded school, pursuant to Subsection (3) of this rule, have been paid by the therapist, may have the warrant made payable directly to the therapist.

Specific Authority 240.6072(3) FS. Law Implemented 240.4042, 240.6071, 240.6072, 240.6073 FS. History - New 2-18-93, Amended 10-15-02.

#### **6A-20.042 Occupational Therapist or Physical Therapist Scholarship Loan Program.**

(1) Therapist. As used in this rule, therapist means an occupational therapist (OT), physical therapist (PT), occupational therapy assistant (OTA) or physical therapist assistant (PTA).

(2) General eligibility requirements. To receive a Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan, students shall meet the provisions of Sections 240.404, 240.6071 and 240.6074, Florida Statutes, Rules 6A-20.001 and 6A-20.0371, FAC., and:

(a) If an initial applicant, submit by April 15 prior to the academic year for which aid is requested Form FFAA-1, Florida Financial Aid Application for Students as incorporated by reference in Rule 6A-20.020, FAC. A copy of Form FFAA-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Be enrolled in a therapist assistant program, or in the upper division or graduate level of a therapist program at a Florida postsecondary institution pursuant to Section 240.6074(2), Florida Statutes.

(c) Declare an intent to be employed for a minimum of three (3) years as a licensed therapist in a Florida publicly-funded school.

(d) Be enrolled for a minimum of twelve (12) credits for undergraduate study or nine (9) credits for graduate study for each academic term in which aid is received.

(e) Not owe a repayment of a state or federal student grant or scholarship unless satisfactory repayment arrangements have been made.

(f) Not be in default on a state or federal student loan unless satisfactory repayment arrangements have been made.

(g) Not have participated in either the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program or the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

(3) Renewal Requirements. Eligibility for renewal of an award will be evaluated at the end of the second semester or third quarter.

(a) For renewal of an undergraduate scholarship loan, a student must have earned:

1. A minimum institutional cumulative grade point average of 2.0 on a 4.0 scale for all undergraduate work.



2. Twelve (12) credits per term, or the equivalent, for the number of terms the award was received.

(b) For renewal of a graduate scholarship loan, a student must have earned:

1. A minimum cumulative grade point average of 3.0 on a 4.0 scale for all graduate work.

2. Nine (9) credit hours per term, or the equivalent, for the number of terms the award was received.

(4) Appeals. A student may appeal decisions of ineligibility due to failure to meet academic progress requirements or errors made by the Office of Student Financial Assistance under the terms of Rule 6A-20.0371, FAC.

(5) Amount of award. The annual amount of the scholarship loan shall be for the cost of education, less other student aid, for a maximum of four thousand (4,000) dollars.

(6) Period of award. Awards will be made annually for the respective academic year.

(7) Maximum terms of eligibility. A student shall be eligible to receive a scholarship loan for a maximum of four (4) semesters or six (6) quarters.

(8) Award procedures.

(a) The Department shall give priority to eligible renewals. If funds are insufficient to provide full awards to all eligible renewals, then available funds will be prorated among eligible renewals.

(b) Initial applicants will be considered for awards from funds remaining after all renewals have received the maximum eligible award. If funds are insufficient to award all initial applicants, initial recipients will be ranked and selected on the basis of unweighted GPA.

(c) The Department shall notify students and institutions of the students' award eligibility. The notice of eligibility to an initial applicant will provide for the acceptance of the award in the form of a properly executed promissory note, Form OPSL-2, Occupational Therapist or Physical Therapist Scholarship Loan Program Promissory Note (Fixed Rate), which is hereby incorporated by reference and made a part of this rule to become effective April, 1996. A copy of this form may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(9) Payment of Awards. The Department shall provide for the delivery of funds to students by transmitting the funds each academic term to the institutions for distribution.

(10) Institutional responsibilities.

(a) Participating institutions shall verify the continued eligibility of awarded students, provide for the disbursement of funds to students, comply with the Department's reporting requirements, and refund to the Department any undisbursed funds.

(b) Institutions shall annually certify to the Department the cost of education and other student aid received.

(c) Within thirty (30) days of the end of the regular registration period each academic term, the Department shall be notified of the eligibility status of awarded students.

(d) Institutions shall certify disbursements of funds

to students, and submit any refunds and cancellations to the Department within sixty (60) days of the end of the institution's regular registration period.

(11) Promissory notes. Upon receipt of the institutions' certification of disbursements to students each academic term, the Department shall enter the disbursed amount on each student's promissory note. A statement, with the amount of loan financed to date, will be mailed by the Department, or its designee, to the borrower at the end of each academic year.

(12) Borrower repayment requirements. The Occupational Therapist and Physical Therapist Scholarship Loan Program shall be repaid either through eligible employment service or repayment in cash.

(13) Cash repayment. A scholarship loan recipient who fails to complete an approved therapist program or who fails to render the required employment service in a Florida public school shall be responsible for repaying the total scholarship loan plus interest and all applicable collection charges. Whether or not provided for in the borrower's promissory note and subject to any limitation on the amount of those costs in that note, the Department shall charge a borrower an amount equal to reasonable costs incurred in collecting a loan. These costs may include, at a minimum, all attorney's fees, collection agency charges, and court costs.

(14) Procedures for applying cash repayments. The Department, or its designee, shall apply a cash repayment to any outstanding collection costs, and to any outstanding interest prior to applying any payment to principal.

(15) Interest rate and accrual. Interest at the annual rate of eight (8) percent shall begin to accrue on the first day of the thirteenth month after the date of completion of an approved therapist program, or after the date of termination of full-time study. Interest shall not accrue during periods of deferment or eligible employment service.

(16) Repayment beginning date and minimum payment due. Repayment of principal and interest shall begin on the first day of the thirteenth month after the date of completion of an approved therapist program or after the date of termination of full-time study, unless otherwise approved by the Department. The Department shall use the expected date of completion reported to the Department by the borrower to establish the repayment schedule unless notified otherwise in writing. The Department, or its designee, upon receipt of notification that a student has completed an approved therapist program or has terminated full-time study, shall provide the student with a repayment schedule based upon the actual date of completion or termination reported, and shall include the total of all loan advances. The minimum monthly payment shall be fifty (50) dollars or the unpaid balance of the aggregate amount of the loan plus accrued interest, whichever is less. However, in no instance shall the minimum monthly payment be less than the accruing monthly interest.

(17) Maximum repayment period. A scholarship loan, plus interest, shall be paid back within ten (10) years of the date of completion of an approved therapist program or after the date of termination of full-time study. The



ten (10) years shall include any approved periods of deferment pursuant to Subsection (25) of this rule.

(18) Collection options. In the collection of payment of loan interest and principal due, the Department shall have the authority to use any reasonable method to assist the borrower in repaying the loan. Such procedures include but are not limited to:

(a) Approving forbearances, and offering graduated repayment and income sensitive repayment schedules.

(b) Matching the names of defaulted borrowers with the names of employees of the state, political subdivisions, or local governments.

(c) Withholding of government wages, pursuant to Section 112.175, Florida Statutes, in the event borrowers fail to enter repayment or fail to make scheduled payments.

(d) Assignment of defaulted loans to the Department's designated collection agencies.

(e) Withholding of State of Florida lottery winnings pursuant to Section 24.115(4), Florida Statutes.

(19) Employment service in lieu of cash repayment. In lieu of cash repayments, a recipient who is under full-time contract and employed in a Florida public school shall, within forty-five (45) days of when the eligible employment service begins, submit to the Department, or its designee, Form DNES, Request for Deferment or Notice of Employment Service, which is hereby incorporated by reference and made a part of this rule to become effective July, 1993. A copy of Form DNES may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(20) Definition of a year of employment. A school year shall be a minimum of one hundred eighty (180) days during the period in which schools are regularly in session, or the equivalent as defined in Section 228.041(16), Florida Statutes. A therapist may be eligible to have allowable interest and principal cancelled upon completion of the following days of eligible employment service during the regular school year: 45-89 days counts for one-fourth a year of eligible employment service; 90 - 134 days counts for one-half a year of eligible employment service; 135-179 days counts for three-fourths a year of eligible employment service; 180 days counts for one full year of eligible employment service.

(21) Verification of employment service. A therapist shall apply for employment credit for a loan by submitting annually to the Department, within forty-five (45) days of completion of eligible employment service, Form CEMP-1, Employment Certification, as incorporated by reference in Rule 6A-20.012, FAC. A copy of Form CEMP-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(22) Employment cancellation provisions. The Department or its designee, upon receipt of Form CES, shall cancel a maximum of two thousand (2,000) dollars of loan principal and accrued interest for each year of eligible employment service that is verified in accordance with the provisions of Subsection (21) of this rule.

(23) Returning promissory notes to borrowers. When a total loan indebtedness is satisfied either by rendering employment service or by cash payment, the Department shall cancel and return the promissory note, Form OPSP-2, to the scholarship loan recipient.

(24) Promissory note cancellation due to death or permanent disability. Scholarship loan promissory notes shall be cancelled by the Commissioner upon receipt of the certificate of death of the scholarship loan recipient or proof of permanent disability which renders the scholarship loan recipient unable to work.

(25) Deferments from repayment and interest accrual. Deferments from repayment and interest accrual may be granted to scholarship loan recipients for full-time attendance at a postsecondary institution, for unemployment when the recipient is conscientiously seeking but unable to secure full-time employment as a therapist in a Florida publicly-funded school, and for economic hardships, which will cover a borrower who earns less than minimum wage or exceeds a federally defined debt-to-income ratio, or for other hardship which the Department determines renders the recipient unable to make repayment. A loan recipient may also be eligible for a graduate fellowship deferment, which covers study under an eligible graduate fellowship program, and a rehabilitation training program deferment, which covers a qualified individual's participation in a rehabilitation training program. Deferments may be granted upon request for a total of up to twenty-four (24) months. Any deferment period may not exceed a maximum of one (1) year. To request a deferment, a recipient shall file Form DNES. The Department may request documentation of the conditions supporting the request for deferment. A recipient must notify the Department as soon as conditions for which the deferment was granted no longer exist. Periods of deferment do not extend the maximum repayment period of ten (10) years.

(26) Form DCOR-1 Student Status Report as incorporated by reference in Rule 6A-20.039, FAC., may be used by scholarship loan recipients to report completion of the approved program of studies, termination of enrollment in an approved program of studies, name and permanent address changes, change of institution, termination of full-time undergraduate enrollment, or to request a reduction in the award amount. A copy of Form DCOR-1 may be obtained from the Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 229.053(1), 240.6072(3), 240.6074(4)(b) FS. Law Implemented 240.404, 240.4042, 240.6071, 240.6072, 240.6074 FS. History - New 2-18-93, Amended 2-15-95, 4-19-96, 10-15-02.

#### **6A-20.111 Criteria for Documentation of Disability.**

This rule is adopted to implement the requirements of Section 1009.41, Florida Statutes, to establish criteria for documentation of a postsecondary student's disability, as defined by the Americans with Disabilities Act, for financial aid eligibility as a part-time student.

(1) The professional who prepares documentation

must have expertise in the area related to the disability in question and be a licensed physician; a licensed psychologist; a licensed school psychologist; a certified school psychologist; a licensed audiologist; a licensed speech-language pathologist; or, a certified school speech-language pathologist.

(2) The documentation must be sufficiently recent, as determined by the educational institution, and include a valid and reasonable assessment of the student's needs; be specific and conclusive, demonstrating that the student has physical, emotional or mental impairment(s) which substantially limit(s) one or more major life activities, as well as showing how the disability will substantially limit the student's ability to meet the minimum full-time load requirements.

(3) The educational institution shall notify the Office of Student Financial Assistance with each term's disbursement report of any student with disabilities for whom the part-time status is a necessary accommodation.

Specific Authority 1001.02(1), 1009.41 FS. Law Implemented 1009.41 FS. History-New 3-12-00.

## Chapter 6D-3

### Enrollment Requirements: Identification and Assignments of Students (Florida School for the Deaf and the Blind)

#### 6D-3.002 Admission and Enrollment Requirements.

##### (1) Definitions.

(a) Hearing Impaired. A hearing impairment is a hearing loss of thirty (30) decibels or greater, pure tone average of 500, 1000, 2000 Hz, ANSI, unaided, in the better ear.

1. Deaf applicants are those whose hearing impairment is so severe that they cannot learn speech and language through normal channels and who need extensive instruction in order to develop language, communication and academic skills.

2. Hard-of-hearing applicants are those whose residual hearing is adequate for learning speech, language, and academic skills through normal channels, provided that classroom and instructional modifications are made.

(b) Visually Impaired. Visual impairments are defined as disorders in the structure and function of the eye that, even with the best correction and treatment, interfere with learning.

1. Blind applicants are those who after the best possible ocular correction have no vision or have little potential for using vision and rely on tactual or auditory senses for learning.

2. Partially sighted applicants are those who after the best possible adjustments and ocular corrections use remaining vision for learning.

(c) Deaf-Blind. One who has a hearing impairment and a visual impairment, the combination of which causes severe communication and other developmental and educational problems that cannot be properly accommodated in special programs solely for the hearing impaired or the visually impaired applicant.

(d) "Florida applicant" means an applicant whose residence is within the state of Florida.

(e) "Residence" means actual physical presence in a place as the parent or adult applicant's place of abode, with the intention to remain there permanently or for an indefinite period of time. Actual presence of the parent or adult applicant for the purpose of receiving free education shall not be considered residence.

(f) Temporary assignment. An applicant's presence in the School for more than ten days for completion of evaluations, either for admission or to provide information to the student's school district. It does not guarantee admission.

(g) Residential determination. An applicant's need to be in a residential setting, as determined by the school district through its Individual Educational Plan process.

(h) Residential service. Room and board provided by the School as a service to a Florida student at the request and consent of the parent at no cost to the parent.

(i) Applicant. A child who meets or may meet one of the classifications defined in paragraph (a), (b), or (c), above who seeks admission, either directly or through his or her parents, guardian, or school district, into the educational program of the School.

(j) Admission. The process of determining whether the applicant is qualified for enrollment and whether the applicant should or should not be enrolled.

(k) Enrollment. The actual registration by the School of the applicant into the School's educational program.

(l) Student. A child who has been enrolled in the School's educational program(s), and who may or may not be a residential student.

(m) Assignment. The determination by the staffing committee of the educational program(s) in the School to which the enrolled student is assigned.

##### (2) Criteria for Admission and Continued Enrollment.

(a) Florida applicants who meet admission criteria are qualified for enrollment or continued enrollment without the payment of tuition. Non-Florida applicants who meet admission criteria other than residency may be enrolled on a tuition basis provided that such enrollment does not deny admission to any qualified applicant who is a resident of Florida.

(b) In addition to meeting the criteria for admission, an applicant will be classified as a "Florida student" or a "non-Florida student". A non-Florida student will be required to pay the tuition charges annually established by the Board of Trustees, with the exception of those students considered tuition fee exempt, pursuant to Section 228.121(3), F.S.

1. In determining residence, the School may consider such matters as voter registration, driver's license, automobile registration, location of bank accounts, rent receipts or any other relevant evidence that tends to show the intent to abide in a jurisdiction permanently or for an indefinite period of time.

##### 2. If the applicant is a minor:

a. The applicant shall be presumed to have the same residence as the applicant's parents or as the parent who has legal custody of the applicant, in the absence of contrary evidence.

b. If the applicant has living parents who reside outside Florida or if the parent who has legal custody of the applicant resides outside Florida, the applicant will be presumed to be a "non-Florida student" in the absence of contrary evidence.

c. If the applicant claims entitlement to be classified as a "Florida student" due to the appointment by a court of competent jurisdiction of a guardian, or legal custodian of the applicant other than the applicant's parents, the burden of establishing facts which justify classification of

the applicant as a resident entitled to classification as a "Florida student" is on the applicant.

3. Application for admission as a "Florida student" shall include a written statement made under oath by the applicant if 18 years of age or older, or made by the applicant's parents, guardian or legal custodian if a minor, that the applicant is entitled to classification as a Florida student under this rule.

4. Any "non-Florida student" enrolled in the Florida School for the Deaf and the Blind prior to October 29, 1984, is required to pay tuition charges annually established by the Board of Trustees. Such student, however, shall not be dismissed from School for failure to pay the tuition charges. In the event of nonpayment, the School shall exercise every reasonable effort to collect the tuition charges from all sources legally responsible for payment.

(c) Any applicant who will attain the age of five years on or before September 1 of the school year may be considered for admission. Any applicant below the age of five years may be considered for admission as a day student.

(d) Applicants eighteen years or older may be enrolled or continued if the goal of the Individual Educational Plan is graduation with a vocational certificate of proficiency or reasonable evidence of progress toward a diploma.

(e) Applicants and students 18 or older, for whom graduation with a vocational certificate of proficiency or a diploma is not the goal of the Individual Educational Plan, may be considered for admission or continued enrollment on the recommendation of the staffing committee.

(f) Applicants who are twenty-one years of age on or before September 1 of the school year shall not be considered for admission.

(g) Students who are twenty-one years of age on or before September 1 of the school year may be considered for continued enrollment in the School, based upon recommendation of the staffing committee.

(h) An applicant is qualified for admission to the School's program for the hearing impaired if the applicant meets all of the following admissions criteria:

1. Evidence of a hearing impairment of thirty (30) decibels or greater, pure tone average of 500, 1000, 2000 Hz, ANSI, unaided, in the better ear.

2. Evidence that the hearing impairment has the potential to adversely affect the applicant's academic performance, social development, language development, communication skills, or intellectual functioning.

3. The applicant must possess evidence of the following minimum daily living skills:

- a. Finger feeds self, chews and swallows most foods,
- b. Indicates awareness of being soiled or wet,
- c. Assists in dressing self, and
- d. Cooperates in bathing.

4. Evidence that the hearing impaired applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

- a. Severely emotionally disturbed, Rule 6A-6.03016,

F.A.C.,

b. Autistic, Rule 6A-6.03023, F.A.C.,

c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,

d. Trainable Mentally Retarded or Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.,

(i) An applicant is qualified for admission to the School's program for the visually impaired if the applicant meets all of the following admissions criteria:

1. Medical. There is a documented eye impairment as manifested by at least one of the following:

a. A visual acuity of 20/70 or less in the better eye after the best possible correction;

b. A peripheral field so constricted that it affects the applicant's ability to function in an academic setting; or

c. A progressive loss of vision which may affect the applicant's ability to function in an academic setting.

2. Educational. There is documented functional vision loss which:

a. Inhibits optimal processing of information through the visual channel; and

b. Requires the use of specialized techniques, textbooks, materials or equipment.

3. The applicant must possess evidence of the following minimum daily living skills:

a. Finger feeds self, chews and swallows most foods,

b. Indicates awareness of being soiled or wet,

c. Assists in dressing self, and

d. Cooperates in bathing.

4. Evidence that the visually impaired applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

a. Severely emotionally disturbed, Rule 6A-6.03016, F.A.C.,

b. Autistic, Rule 6A-6.03023, F.A.C.,

c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,

d. Trainable Mentally Retarded or Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.

(j) An applicant is qualified for admission into the School's program for the deaf-blind if the applicant meets the following admissions criteria:

1. Meets the definition of blind or partially sighted in Rule 6A-6.03014, F.A.C., as attested to by an ophthalmologist or optometrist, and meets the definition of deaf or hard of hearing in paragraphs 6A-6.03013(1)(a) and (b), F.A.C., as attested to by a certified audiologist, and is unable to profit from a program, for the hearing impaired or a program for the visually impaired without severe adjustments, e.g., a tutor-companion; or

2. Meets the definition of blind or partially sighted in Rule 6A-6.03014, F.A.C., and in the best professional judgment of the evaluator is deaf or hard of hearing as defined in Rule 6A-6.03013, F.A.C., and is unable to profit from a program for the hearing impaired or a program for the visually impaired without severe adjustments, e.g., a tutor-companion; or

3. Meets the definition of deaf or hard of hearing in Rule 6A-6.03013, F.A.C., and in the best professional judgment of the evaluator is blind, as defined in Rule 6A-6.03014, F.A.C., and is unable to profit from a program

for the hearing impaired or a program for the visually impaired without severe adjustment, e.g., a tutor-companion.

4. The applicant must possess evidence of the following minimum daily living skills:

- a. Finger feeds self, chews and swallows most foods,
- b. Indicates awareness of being soiled or wet,
- c. Assists in dressing self.

5. Evidence that the deaf-blind applicant does not meet the criteria for eligibility for one or more of the following programs as defined by State Board of Education Rules:

- a. Severely emotionally disturbed, Rule 6A-6.03016, F.A.C.,
- b. Autistic, Rule 6A-6.03023, F.A.C.,
- c. Homebound-hospitalized, Rule 6A-6.03020, F.A.C.,
- d. Profoundly Mentally Retarded, Rule 6A-6.03011, F.A.C.

6. Evidence that the deaf-blind applicant cannot be properly accommodated exclusively in programs for the hearing impaired or visually impaired.

(k) An applicant may not be qualified for admission or continued enrollment:

1. If the applicant or student is determined to be a danger to self or others.
2. If the applicant or student is determined to be disruptive to other students or the educational process.
3. If the applicant or student is determined to have medically related health and safety issues which are beyond the scope of the Health Care Center, the educational and residential programs and their resources to appropriately manage.
4. If the parent or adult student refuses to give consent for emergency medical treatment or for the health care plan for students with involved medical problems.

5. Such a determination shall be based upon a recommendation by the staffing committee, in consultation with professionals, based upon past evidence of behavior, criminal activity or the commission of a Class A violation as defined by the Code of Student Conduct, and health and safety. A final determination of admission and continued enrollment will be made by the President or designee. Impartial due process hearings may be initiated as provided in Rule 6D-3.003, F.A.C., as a result of such determinations.

(l) There must be an individualized evaluation(s) by a qualified individual(s), an eligibility determination and a proposed or current Individual Educational Plan by a school district.

(m) In admitting applicants to such programs, special consideration will be given to applicants who meet admission criteria and who:

1. Reside in school districts not providing approved programs as required by Rule 6A-6.03013, 6A-6.03014 or 6A-6.03022, F.A.C., or who cannot be reasonably transported to an approved program in a school district; or
2. Have concomitant physical, mental or emotional handicapping conditions; or

3. Have a home environment such that continuation in that environment is detrimental to the physical, emotional or mental development of the applicant; or

4. On an interim basis have extenuating circumstances. This may include the difficulty in an applicant adapting to his disability.

(3) Procedures for Application.

(a) Applications for the admission of a student shall be submitted by school personnel from the school district in which the applicant or his or her parents, legal guardian, or person who has legal custody resides; or

(b) Application for admission may be submitted directly to the School by parents, legal guardian or person who has legal custody.

(c) If the applicant has not been evaluated by the school district, pursuant to Section 230.23(4)(m), F.S. and Rule 6A-6.0331, F.A.C., and determined eligible for a special program for exceptional students, the applicant or the requesting authority will be directed by the School to have the applicant evaluated by the school district and an Individual Educational Plan prepared by that school district. No applicant will be considered for admission to the School without the school district evaluation. The School shall immediately send a copy of the completed application form to the school district in which the applicant or his or her parents, guardian or person having legal custody resides.

(d) If the applicant has already been evaluated by the school district, pursuant to Section 230.23(4)(m), F.S., and Rule 6A-6.0331, F.A.C., and determined eligible for a special program for exceptional students, the applicant will be considered for admission. The School shall immediately send a copy of the completed application form to the school district in which the applicant or his or her parents, guardian or person having legal custody resides and request from the school district all current evaluation data and a copy of the current or proposed Individual Educational Plan.

(e) Notwithstanding the provisions of paragraphs (c) and (d) above, a school district and the School may enter into an agreement for the School to perform one or more of the following activities:

1. Conduct an individual evaluation(s) by qualified individuals.

2. Determine that the student is handicapped.

3. Develop Individual Educational Plan.

(f) Any determination made by the School pursuant to such an agreement shall be considered a determination by the school district, as provided for in paragraph (e) above.

(4) Procedures for Determining Admissions and Assignment.

(a) Upon receipt of a completed application from a school district or a parent, the School staffing committee shall review any evaluation data submitted and shall conduct or obtain any additional evaluations necessary.

(b) The Staffing committee shall recommend admission through the professional activity of reviewing evaluation information, eligibility determination, the Individual Educational Plan developed by the school



district and matching it to the definitions and criteria for admission in subsections 6D-3.002(1) and (2), F.A.C.

(c) An applicant may be considered for a temporary assignment for extended evaluation when meeting admission criteria cannot be established through the staffing process.

1. A staffing and a temporary Individual Educational Plan must be developed prior to temporary assignment.

2. Parental consent must be obtained, prior to temporary assignment.

3. The extended evaluation must be for no longer than ninety (90) school days.

4. A temporary Individual Educational Plan will be followed during the extended evaluation period.

(d) The staffing committee shall consist of a minimum of three professional personnel, one of whom shall be the President or designee.

1. A representative(s) from the school district in which the applicant resides shall be invited in writing to attend and participate in the recommendations regarding the admission and assignment of the applicant.

2. Other professional personnel who may be invited include but are not limited to the following: Director of Child Study Center, an audiologist, Principal of the Department, supervising teacher in the Department, and an educational diagnostician.

3. Additional personnel may be involved in the recommendations through providing information or by attending staffing meetings as requested by the parent, School or the school district.

4. The parents and, when appropriate, the applicant shall be invited to attend the admission and assignment staffing.

(e) Upon receipt of the completed application and the receipt of a current or proposed Individual Educational Plan from the school district, the Florida School for the Deaf and the Blind shall schedule a staffing committee meeting no later than 30 calendar days after receipt of the completed application and the current or proposed Individual Educational Plan. School district personnel and parents shall receive a minimum notice of ten working days unless another date and time are mutually agreed upon.

(f) The location of the staffing committee meeting shall be at the Florida School for the Deaf and the Blind unless another location is mutually agreed upon by the School, the school district and the parent.

(g) In interpreting evaluation data and in making admission and assignment decisions, each committee shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior;

2. Insure that information obtained from all of these sources is documented and carefully considered;

3. Insure that the assignment decision is made by a group of persons, including persons knowledgeable about the applicant, the meaning of the evaluation data;

4. Insure that the assignment decision is made in

conformity with the least restrictive environment.

(h) If a determination is made that an applicant is qualified for admission, an Individualized Education Plan shall be developed for the applicant in accordance with Rule 6D-3.0021, F.A.C.

(i) The President of the School shall be responsible for the following:

1. Reviewing the recommendations of the evaluation specialists and the staffing committee evaluation data submitted with an applicant's complete application and the current or proposed Individual Educational Plan from the school district.

2. Reviewing the recommendations for admission made by the staffing committee.

3. Making final decisions on admission.

4. Assuring that parents have been appropriately informed of the applicant's qualifications for admission, the determination of admission and assignment, and that the parent has consented to the admission to the School.

5. Informing the appropriate school district of the School's determination of admission and assignment of each applicant.

6. Insuring that appropriate procedures and parent notices are completed when a student is dismissed from the School.

(j) The Florida School for the Deaf and the Blind, or the parent, who disagrees with the Individual Educational Plan prepared by the School, or the assignment of the applicant under the Individual Educational Plan has a right to a due process hearing as provided by Rule 6D-3.003, F.A.C.

(5) Dismissal/Continued Enrollment.

(a) Students who no longer meet the admission criteria of the School described in subsection 6D-3.002(2), F.A.C., or whose re-evaluation(s) as described in subsection 6D-3.0021(2), F.A.C., indicate that enrollment in the School is no longer needed may be dismissed from enrollment in the School.

(b) Once enrolled, a student who, upon re-evaluation, no longer meets FSDB admission criteria may be allowed to remain in the School if it is determined that the student's identified needs are being met and the student is progressing. A student shall not be allowed to remain, if the student is considered to be a danger to self or others. Upon review of the staffing committee's recommendations, which shall be based on current re-evaluation data, the President or designee shall render the final decision.

(c) If the student is determined to be a danger to self or others, the procedures pursuant to sub-subparagraph 6D-3.0021(1)(c), (3)(a)4.b. and paragraph 6D-3.002(2)(k), F.A.C., shall be followed.

(d) The staffing committee shall follow the staffing procedures pursuant to FSDB Rules 6D-3.002 and 6D-3.0021, F.A.C. The President or designee may order an additional staffing committee meeting if it is determined proper procedures were not followed.

(e) When planning a staffing committee meeting the student's school district and parents or guardian shall receive ten (10) day prior notice in writing of:

1. Any evaluations to be conducted;
2. The intent to have a staffing meeting.

(f) During or upon completion of the staffing committee meeting the student's school district and parents or guardian shall receive the results of the evaluations and the recommendations of the staffing committee. A final determination for continued enrollment will be made by the President or designee. The student's school district and parents or guardian shall receive immediate notice via telephone or facsimile of the final determination regarding the student's continued enrollment.

(g) Dismissal of a student shall not take effect until 14 days after the President's, or designee's, written notification of the dismissal to the school district and to the student's parents, or when an appropriate alternative placement is secured by the school district, whichever occurs first. The written notification of the dismissal will be sent by registered mail, return receipt requested. The School's normal disciplinary procedures may be followed during these proceedings.

(h) If the student is deemed medically at risk by the Medical Director, or is determined to have a health condition beyond the responsibility of the Health Care Center, the student shall immediately be sent home. The School Medical Director, in accordance with paragraph 6D-9.004(1)(d), F.A.C., may request the appropriate medical examinations from the student's attending physicians or specialists. If as specified in paragraph 6A-6.03020(3)(a), F.A.C., a student is to be at home for at least fifteen (15) consecutive school days due to a physical or mental condition, or for at least fifteen (15) school days which need not run consecutively due to a chronic condition and will be able to participate in and benefit from an instructional program, then the School will contact the local school district to cooperatively provide instructional services.

(i) Upon receipt of the results of the medical examinations, a staffing committee, following the procedures pursuant to Rule 6D-3.002, F.A.C., shall meet to make a recommendation whether the student continues to meet FSDB's admission criteria. When conducting a staffing committee for this purpose, provisions of paragraphs (5)(e)-(f) shall be followed except that the school district and the parents or guardian shall receive a five (5) day notice of the meeting.

(j) Dismissal of a student who has been determined to have medically related health and safety issues which are beyond the scope of the Health Care Center, the educational and residential programs and their resources, shall not take effect until 10 days after the President's, or designee's, written notification of the dismissal to the school district and to the student's parents or guardian, or when an appropriate alternative placement is secured by the school district, whichever occurs first. The written notification of the dismissal will be sent registered mail, return receipt requested.

(k) Absences incurred during the time the procedures described in paragraphs (5)(h)-(i) are followed shall be

considered excused absences, as defined in paragraph 6D-7.007(2)(e), F.A.C.

(l) When a student is withdrawn by a parent, the School shall notify by mail, as soon as possible, the student's school district.

(m) The student or his or her parents or legal guardian may request a due process hearing in accordance with Rule 6D-3.003, F.A.C., to challenge the student's dismissal from the School under these provisions.

Specific Authority 242.331(3) FS. Law Implemented 120.53(1)(b), 229.053(2)(i), (j), 230.23(4)(m), 242.331(4) FS. History-New 12-19-74, Revised 1-29-76, Amended 1-29-80, 5-2-86, Formerly 6D-3.02, Amended 5-5-87, 4-12-90, 12-20-92, 3-29-95, 3-25-96.

Cf. P. L. 94-142, 20 USC 1401(18), (19), 1412(2), (5), (6), 1413(a)(2), Federal Register, Volume 42, Number 163, Regulations 121a.2, 121a.4, 121a.503.

## Chapter 64D-3

### Control of Communicable Diseases and Conditions which May Significantly Affect Public Health

#### **64D-3.046 Immunization Requirements: Public and Nonpublic Schools, Grades Preschool, Kindergarten Through 12, and Adult Education Classes.**

(1) Immunizations required for school attendance shall be available free of charge from county health departments subject to the availability of state funding to cover the costs of vaccine and administration of the vaccine. If state funding is not available to cover the cost of vaccine and administration of vaccine, children who are covered by health insurance are not eligible to receive immunizations from county health departments.

(2) Immunization and Documentation Requirements for School Entry/Attendance:

(a) A student may attend a public or non-public school, grades preschool through 12 or an adult education class if younger than 21, if prior to admittance, attendance or transfer, they present one of the following for inspection for validity by an authorized school official:

1. DH Form 680, Florida Certification of Immunization (July 2010), incorporated by reference, available from Department of Health (DOH) county health departments (CHDs) or physicians' offices, or online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02410>; or

2. DH Form 681, Religious Exemptions for Immunizations (English/Spanish/Haitian-Creole) (July 2008), incorporated by reference, available at DOH CHDs, must be signed by the local county health department medical director or designee. The form is available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-02341>.

(b) Specific immunization requirements by grade which must be documented prior to admittance, attendance or any other initial entrance are detailed in the Immunization Guidelines-Florida Schools, Childcare Facilities and Family Daycare Homes DH Form 150-615 (March 2013), incorporated by reference, available online at: [www.doh.state.fl.us/disease\\_ctr/immune/school-guide.pdf](http://www.doh.state.fl.us/disease_ctr/immune/school-guide.pdf) or <http://www.flrules.org/Gateway/reference.asp?No=Ref-02342>.

1. Temporary or permanent medical exemption DH Form 680 must be signed by a practitioner licensed under Chapter 458 or 459, F.S., or their authorized representative. For temporary or permanent medical exemption the signing practitioner must possess medical records documenting the medical basis for each such exemption.

2. A DH Form 680 that does not include a temporary or permanent medical exemption must be signed by a practitioner licensed under Chapter 458, 459, 460, or 464, F.S.

3. Florida SHOTS (State Health Online Tracking System) Electronically Certified DH Form 680 accessed directly by the school is considered certified in writing and signed by the Florida SHOTS private provider.

(3) Documentation Requirements for Schools:

(a) The original or a copy of a valid original of the form(s) required under this rule shall remain in the student's cumulative health record unless verified in Florida SHOTS.

(b) Antigen doses by dates of immunization shall be transferred as data elements through the Florida Automated System for Transferring Education Records (FASTER).

(c) Compliance Reporting:

1. Each public and nonpublic school with a kindergarten and/or seventh grade shall submit an annual compliance report. The report shall be completed on DH Form 684, Immunization Annual Report of Compliance for Kindergarten and Seventh Grade (July 2010), incorporated by reference, available at DOH CHDs. The report shall include the immunization status of all children who were attending kindergarten and seventh grades at the beginning of the school year. The report shall be forwarded to the CHD director/administrator no later than October 1 of each school year where the data will be compiled on DH Form 685, Kindergarten and Seventh Grade Annual Report of Compliance County Summary (July 2010), incorporated by reference, available at DOH CHDs; or electronically generated by the Department of Education.

2. After consultation with the Department of Education, the Department of Health shall require compliance reports from public and nonpublic schools and preschools for selected grades (K-12 and preschool) in special situations of vaccine preventable disease outbreak control or identified need for monitoring through surveys for immunization compliance levels. Such reports shall include the status of all children who were attending school at the beginning of the school year. Reports shall be forwarded to the CHD director/administrator within a specified period, as determined by the DOH.

(4) Homeless, Transfers and Juvenile Justice - A temporary exemption to requirements of subsection (1) above not to exceed 30 days may be issued by an authorized school official for any of the following, consistent with the definitions in Section 1003.01, F.S.:

(a) A homeless child.

(b) A transfer student.

(c) A student who enters a juvenile justice education program or school.

(d) Children of military families as defined under Section 1000.36, F.S.

(5) Notwithstanding subsection (3), the Department may:

(a) Designate any required immunization as unnecessary or hazardous, according to recognized standards of medical practice.

(b) Upon determination that a shortage of vaccine

exists, approve issuance of temporary medical exemption with extended expiration dates by practitioners or authorized school officials until such time as, in the DOH's opinion, vaccine will be available in sufficient quantity for such deferred vaccinations to be completed.

(6) Florida SHOTS (State Health Online Tracking System) Opt Out Provision - Parents or guardians may elect to decline participation in the Florida immunization registry, Florida SHOTS, by submitting a Florida SHOTS Notification and Opt Out Form to the DOH. The form, either a DH Form 1478 (English) (January 2007) or DH Form 1478S (Spanish) (September 2003) or DH Form 1478H (Haitian-Creole) (January 2006), incorporated by reference, is available from the DOH, Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719. The immunization records of children whose parents choose to opt-out will not be shared with other entities that are allowed by law to have access to the children's immunization record via authorized access to Florida SHOTS.

(7) Florida SHOTS Private Provider Participation - Any health care practitioner licensed in Florida under Chapter 458, 459 or 464, F.S., may request authorization to access Florida SHOTS by filling out a DH Form 1479, Authorized Private Provider User Agreement for Access to Florida SHOTS (January 2007), incorporated by reference, available from the DOH Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719. The DH Form 1479 will be returned to the Department of Health for processing and authorization to access Florida SHOTS. Notification of access approval and instructions for accessing Florida SHOTS will be provided by the DOH. The authorized user and the applicable licensing authority or agency shall notify the DOH, Bureau of Immunization Florida SHOTS personnel when an authorized user's license or registration has expired or has been suspended or revoked.

(8) Florida SHOTS School and Licensed or Registered Child Care Facility Participation - Any public or nonpublic school, or licensed or registered child care facility may request authorization to access Florida SHOTS by completing a DH Form 2115, Authorized School and Licensed or Registered Child Care Facility User Agreement for Access to Florida SHOTS (January 2007), incorporated by reference, available from the DOH, Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719. The DH Form 2115 will be returned to the DOH for processing and authorization to access Florida SHOTS. Notification of access approval and instructions for accessing Florida SHOTS will be provided by the DOH. The authorized user and the applicable licensing authority or agency shall notify the DOH, Bureau of Immunization Florida SHOTS personnel when an authorized user's license or registration has expired or has been suspended or revoked.

Rulemaking Authority 381.003(1), (2), 381.005(3), 1003.22 FS. Law Implemented 381.003(1), 381.005(1)(i), 1003.22 FS. History-New 11-20-06, Amended 7-15-07, 7-28-08, 12-29-10, 12-29-11, 4-2-13.

## Chapter 64F-6

### School Health Services Program

#### 64F-6.001 Definitions.

When used in Chapter 64F-6, the following definitions will apply:

(1) "Consultation" means communication by telephone, in writing, or through personal contact concerning a student's health problem or suspected health problem.

(2) "Family" means the student and others who have an integral role in the care and support of the student such as parents, spouses, non-custodial parents, legal guardians, siblings, grandparents, and foster parents.

(3) "Follow-up" means the contact with a student, family member, or service provider to verify receipt of services, provide clarification, and determine the need for additional assistance.

(4) "Growth and development screening" means the periodic measurement of a student's height and weight to identify abnormal growth and development.

(5) "Non-public schools" means those non-public schools that meet the requirements listed in Section 381.0056(6), F.S.

(6) "Nursing assessment" means the identification of student health needs. This is an entry and on-going process which includes compiling a health history, making observations, monitoring student and family reactions, interviewing to ascertain social and emotional stability and determine resources to meet the stated needs. It may also include making a physical assessment by those nurses who are qualified to provide these assessments.

(7) "Staffing" means the evaluation by designated school and health care providers of a student for placement in an exceptional student program.

(8) "Supplemental School Health Services" means those expanded health, educational and social services provided under the provisions and funding process specified in Section 381.0057, F.S., and Rule 64F-6.008, F.A.C.

(9) "Vision and hearing screening" means the periodic testing of visual and auditory acuity.

Specific Authority 402.32(8) FS. Law Implemented 402.32(5)(a)-(e), (h)-(k), (o), (r) FS. History-New 3-10-85, Formerly 10D-84.14, Amended 4-6-94, 4-25-96, Formerly 10D-84.014.

#### 64F-6.002 School Health Services Plan.

(1) The state plan for school health services shall be developed by the department in cooperation with the Department of Education to include, at a minimum, a plan for the delivery of school services; accountability and outcome indicators; strategies for assessing and blending financial resources (both public and private); and establishment of a data system.

(2) The local school health services plans shall

include, at a minimum, the following components:

(a) A plan for the delivery of those services listed in ss. 381.0056(5)(a)-(r) and 381.0057, F.S.;

(b) Budget and staffing information;

(c) Number and levels of public and non-public schools and number of students served;

(d) Communicable disease policies;

(e) Immunization policies that, at a minimum, include immunization requirements for schools as listed in Rule 64D-3.011, F.A.C., and Section 232.032, F.S.;

(f) Initial school entry health examination policy;

(g) Health services reporting procedures;

(h) Advisory committee activities and membership; and

(i) School district and county public health unit personnel responsible for coordinating health services.

(j) The local school health services plan shall describe employing or contracting for all health-related staff and the supervision of all school health services personnel regardless of funding source.

1. Protocols for supervision of school health services personnel shall be described in the local school health services plan to assure that such services are provided in accordance with statutory and regulatory requirements and professional standards. These shall be kept on file at the local school district and the county health department (CHD).

2. Decisions regarding medical protocols or standing orders in the delivery of school health services are the responsibility of the CHD medical director in conjunction with district school boards, local school health advisory committees, the school district medical consultant, or the student's private physician.

(3) Each local school health services plan shall be completed biennially and approved and signed by the superintendent of schools, school board chairperson, CHD medical director or administrator and the department's district administrator.

(a) The local school health services plan shall be reviewed each year for the purpose of updating the plan. Amendments shall be signed by the school district superintendent and the CHD medical director or administrator.

(b) The services provided shall be dependent on the statutory requirements, local priorities and availability of resources.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5) FS. History-New 3-10-85, Formerly 10D-84.15, Amended 4-6-94, 4-25-96, Formerly 10D-84.015.

#### 64F-6.003 Screening.

(1) Vision screening shall be provided, at a minimum,



to students in grades kindergarten, 1, 3 and 6 and students entering Florida schools for the first time in grades kindergarten through 5.

(2) Hearing screening shall be provided, at a minimum, to students in grades kindergarten, 1 and 6; to students entering Florida schools for the first time in grades kindergarten through 5; and optionally to students in grade 3.

(3) Growth and development screening shall be provided, at a minimum, to students in grades 1, 3 and 6 and optionally to students in grade 9.

(4) Scoliosis screening shall be provided, at a minimum, to students in grade 6.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5)(f)-(i) FS. History-New 3-10-85, Formerly 10D-84.16, Amended 4-6-94, Formerly 10D-84.016, Amended 5-11-04.

#### **64F-6.004 Meeting Emergency Health Needs.**

(1) Policies, procedures and protocols for the management of health emergencies shall be in writing and kept on file at the local school district, each school, and the CHD, and include, at a minimum, the following provisions:

(a) An emergency information card, updated annually, shall be completed for each student listing contact person, family physician, allergies, significant health history and permission for emergency care; and

(b) The locations of emergency supplies and equipment and a list of persons currently certified by a nationally recognized certifying agency to provide first aid and cardiopulmonary resuscitation shall be posted in several areas throughout the school plant.

(2) As part of the plan, all employees who staff school health rooms shall be currently certified in first aid and cardiopulmonary resuscitation by a nationally recognized certifying agency. A copy of this certification shall be kept on file in the health room or the school office, and a list of those persons currently certified in first aid and cardiopulmonary resuscitation shall be displayed in the health room, school office, cafeteria, gymnasium, home economics classrooms, industrial arts classrooms, and other areas that pose an increased potential for injuries.

(3) As part of the plan, each school shall ensure that at least two school staff members, excluding health room staff, are currently certified by nationally recognized certifying agencies to provide first aid and cardiopulmonary resuscitation. A copy of this certification shall be kept on file in the health room or the school office, and a list of those persons currently certified in first aid and cardiopulmonary resuscitation shall be displayed in the health room, school office, cafeteria, gymnasium, home economics classrooms, industrial arts classrooms, and other areas that pose an increased potential for injuries.

(4) The school nurse, in cooperation with the school principal or the person designated by the principal or the acting principal, shall assist in the planning for the training of those persons who provide care on a day-to-day basis to students who are ill or injured while on

school grounds during school hours.

(5) The school nurse shall monitor the adequacy and expiration date of first aid supplies, emergency equipment and facilities.

(6) The school principal or the person designated by the principal or the acting principal shall be responsible for assuring that first aid supplies, emergency equipment and facilities are maintained.

(7) All injuries and episodes of sudden illness referred for emergency health treatment shall be documented and reported immediately to the principal or the person designated by the principal or the acting principal.

Specific Authority 381.0056(8) FS. Law Implemented 381.0056(5)(l) FS. History-New 3-10-85, Formerly 10D-84.17, Amended 4-6-94, Formerly 10D-84.017.

