

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, and who have not deferred receipt of the diploma, in accordance with Section 1003.4282(9)(c)(10)(e), F.S. 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) through (c) No change.

1. through 2. No change.

(2) No change.

(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. For a student identified as gifted in accordance with Rule 6A-6.03019, F.A.C., and who is also identified as a student with a disability, as defined in paragraph 6A-6.03411(1)(f), F.A.C., the strengths, needs and services associated with a student's giftedness must be addressed in the student's IEP. Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student. For the purposes of this rule, the term parents also includes legal guardians.

(a) Role of parents. The role of parents in developing IEPs includes:

1. through 6. No change.

(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. through 3. No change.

4. No later than the first IEP to be in effect during when the student's seventh grade year or when the student attains the age of twelve (12), whichever occurs first ~~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. ~~No~~ ~~Not~~ later than the first IEP to be in effect when the student enters high school, attains the age of fourteen (14) turns sixteen (16), or younger if when determined appropriate by the parent and the IEP team, whichever occurs first, the notice must also indicate that a purpose of the meeting will be consideration of the postsecondary and career 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. No later than the first IEP to be in effect at the beginning of the school year the student is expected to graduate, the notice must indicate that a purpose of the meeting will be the consideration for deferment and identifying if the student will defer the receipt of his or her diploma.

~~76.~~ If ~~neither~~ a parent cannot ~~can~~ attend in person, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing.

~~87.~~ 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. through c. No change.

~~98.~~ The district shall take whatever action is necessary to ensure that the parents and the student, during the student's seventh grade year or when the student attains the age of twelve (12), beginning at age fourteen (14), whichever occurs first, 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.

~~109.~~ 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.

~~1110~~. The district shall give the parents a copy of the IEP at no cost to the parents.

(c) through (g) No change.

(h) Contents of the IEP. The IEP for each student with a disability must include:

1. through 3. No change.

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~~ without disabilities 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~~ without disabilities 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)~~(d)(e)~~3., F.S. If the IEP Team determines that the student will take the Florida Standards 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 cannot participate in other statewide standardized assessments or district assessments and, if applicable, why the particular district 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., or a medically complex exemption in accordance with Section 1008.22~~(11)(9)~~, 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. through 7. No change.

8. During the student's seventh grade year or when the student attains the age of twelve (12), whichever occurs first, Before attaining the age of fourteen (14), 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 the following:

~~a. A statement of intent to pursue a standard high school diploma pursuant to Sections 1003.4282(1) (9), or 1003.4282(10), F.S., and a Scholar or Merit designation in accordance with Section 1003.4285, F.S., as determined by the parent;~~

~~a. b.~~ The preparation needed for the student to graduate from high school with a standard diploma and a Scholar or Merit diploma designation as determined by the parent; ~~and,~~

~~b. e.~~ Consideration of the student's need for instruction or the provision of information in the area of self-determination and self-advocacy to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, so that needed postsecondary and career goals may be identified ~~and in place by age sixteen (16).~~ The plan must be operational and in place to begin implementation on the first day of the student's first year in high school;

c. Provision of the information to the student and his or her parent of the school district's high school-level transition services, career and technical education, and collegiate programs available to students with disabilities and how to access such programs; and

d. Information shall be provided on school-based transition programs and programs and series available through Florida's Center for Students with Unique Abilities, the Florida Centers for Independent Living, the Division of Vocational Rehabilitation, the Agency for Persons with Disabilities, and the Division of Blind Services. Referral forms, links and technical support contacts for these services must be provided to students and parents at IEP meeting.

9. Beginning not later than the first IEP to be in effect when the student enters high school, attains the age of fourteen (14), or when determined appropriate by the parent and the IEP team, whichever occurs first, the IEP must be updated at least annually and turns sixteen (16), or younger, if determined appropriate by the IEP Team and updated annually, the IEP must include the following:

a. A statement of intent to receive a standard high school diploma pursuant to Sections 1003.4282(1)-(9) or

(10), F.S. This statement must be signed by the parent or guardian and must document the following:

(I) If the student will pursue a Scholar or Merit designation in accordance with Section 1003.4285, F.S., as determined by the parent; before the student attains the age of twenty two (22) and a description of how the student will fully meet the requirements of Section 1003.4282, F.S. This requirement does not apply if the student entered grade 9 prior to the 2014-2015 school year and is pursuing a special diploma in accordance with the student's IEP;

(II) Discussion of the process for a student with a disability who meets the requirements for a standard high school diploma to defer the receipt of such diploma pursuant to Section 1003.4285, F.S.

(II) Appropriate measurable postsecondary and career goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services (including pre-employment transition services and courses of study) needed to assist the student in reaching those goals. Any changes to these goals; and,

(III) 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.

(IV) A statement of the outcomes and the additional benefits expected by the parent and the IEP team at the time of the student's graduation;

b. For the IEP in effect at the beginning of the school year the student is expected to graduate, this statement must also include the following: A statement of the outcomes and the additional benefits expected by the parent and the IEP team at the time of the student's graduation;

(I) A signed statement by the parent, the guardian or the student, if the student has reached the age of majority and rights have transferred to the student, that he or she understands the process of deferment and identifying if the student will defer the receipt of his or her standard high school diploma.

e. A statement of appropriate measurable postsecondary and career 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; and,

d. 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.~~

10. No change.

11. Beginning with the 2015-2016 school year, a statement identifying the Career and Professional Education (CAPE) digital tool certificates and the CAPE industry certifications that the student seeks to attain before high school graduation, if any, pursuant to Section 1003.4203, F.S.

(i) LRE and placement determinations. Placement determinations shall be made in accordance with the LRE provisions of the IDEA, as follows:

1. through 4. No change.

a. through e. No change.

5. No change.

(j) Review and revision of the IEP. The school district shall ensure that the IEP Team:

1. through 4. No change.

(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. In addition, the following changes to the IEP and decisions made by the IEP team must be approved by the parent or the adult student if rights have transferred in accordance with subsection 6A-6.03311(8), F.A.C. Such changes are subject to an independent reviewer selected by the parent as provided in Section 1003.572, F.S., and include:

1. Changes to the postsecondary or career goals; and,

2. Beginning with students entering grade 9 in the 2014-2015 school year, changes in the selected graduation option specified in the student's IEP and any waiver of statewide standardized assessment results made by the IEP team in accordance with the provisions of Section 1008.22(3)(d)(~~e~~), F.S.

(l) through (s) No change.

(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 without disabilities in the area served by the school district, including art, music, industrial arts, consumer and homemaking education, and career technical education.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.4203, 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22 FS. Law Implemented 1002.33, 1003.01(3)(a), (b), 1003.4203, 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1003.5716, 1008.22 FS. History—New 7-13-93, Amended 10-17-04, 12-22-08, 12-15-09, 3-25-14, 12-23-14, 1-7-16.