

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(8) ~~(9)~~(c), 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) though (c) 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 5. No change.

6. Participating in the determination of which course of study leading towards a standard diploma the student will pursue, consistent with Section 1003.4282, F.S., to include a course of study leading to a Scholar or Industry Scholar ~~Merit~~ designation in accordance with Section 1003.4285, 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 ~~Standards~~ Alternate Assessment and the provision of instruction in the state alternate academic achievement 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. through 3. No change.

a. ~~4.~~ No later than the first IEP to be in effect during the student's seventh grade year or when the student attains the age of twelve (12), whichever occurs first, 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.

b. ~~5.~~ No later than the first IEP to be in effect when the student enters ninth grade or when the student high school, attains the age of fourteen (14), whichever occurs first, or 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.

c. ~~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.

4. ~~7.~~ If a parent cannot attend in person, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing.

5. ~~8.~~ 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.

~~6. 9.~~ 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), 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.

~~7. 10.~~ 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.

~~8. 11.~~ 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 7. No change.

8. During the student's seventh grade year or when the student attains the age of twelve (12), whichever occurs first, 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. The preparation needed for the student to graduate from high school with a standard diploma and a Scholar or Industry Scholar Merit diploma designation as determined by the parent;

b. through d. No change.

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 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 Industry Scholar Merit designation in accordance with Section 1003.4285, F.S., as determined by the parent:

(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.

~~(III)~~ ~~(H)~~ 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,

~~(IV)~~ ~~(HH)~~ 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.

~~(V)~~ ~~(HV)~~ 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:

(I) No change.

10. Beginning at least one (1) year before the student's eighteenth (18th) birthday, the age of majority, 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.

11. At least one (1) year before the student reaches the age of majority, provision of information and instruction to the student and his or her parent on self-determination and the legal rights and responsibilities regarding the educational decisions that transfer to the student upon attaining the age of eighteen (18). Pursuant to Section 1003.5716, F.S., the information must include the ways in which the student may provide informed consent to allow his or her parent to continue to participate in educational decisions, including:

a. Informed consent to grant permission to access confidential records protected under the Family Educational Rights and Privacy Act (FERPA) as provided in s. 1002.22, F.S.

b. Powers of attorney as provided in chapter 709, F.S.

c. Guardian advocacy as provided in s. 393.12, F.S.

d. Guardianship as provided in chapter 744, F.S.

~~12.~~ ~~44.~~ 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) through (j) 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 review by private instructional personnel who are hired, contracted, or reviewer selected by the parent pursuant to 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, C~~changes to in the selected graduation pathway 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), F.S.

(l) through (t) No change.

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, 5-3-22,