

STATE BOARD OF EDUCATION
Action Item
February 18, 2014

SUBJECT: Approval of Amendments to Rules Relating to Exceptional Student Education: 6A-6.03028, Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities; 6A-6.0331, General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services; and 6A-6.03311, Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1003.55(6)(b), 1003.57, 1003.5715, 1008.22, 1008.212, Florida Statutes

EXECUTIVE SUMMARY

Rule 6A-6.03028, F.A.C., is proposed for revision based on state statutory amendments and a revision to the implementing regulations of the Individuals with Disabilities Education Act (IDEA) that have impacted the content of this rule. The Following changes are proposed:

- A requirement is added related to parent notification of an IEP team meeting. If the IEP team meeting is convened for the purpose of reviewing or changing the student's IEP as it relates to participation in access points curriculum, the Florida Alternate Assessment, or placement in an ESE center school, the school must provide notice to the parent at least ten days prior to the meeting. The meeting can be convened prior to the tenth day if the parent agrees following receipt of the written notice.
- The proposed rule requires the use of the Model Communication Plan during an IEP meeting for students who are deaf, hard of hearing, or dual sensory impaired. Use of this plan will ensure that IEP teams are considering the instructional needs of these students in a more comprehensive manner. As required by law, the plan proposed was developed in coordination with the Florida School for the Deaf and the Blind, and with the input of other stakeholders.
- Clarification is provided that parents must be informed of the implications of nonparticipation in the statewide assessment if an extraordinary exemption in accordance with Section 1008.212, Florida Statutes, is granted.
- Provisions related to obtaining consent and providing notice regarding the use of public benefits and insurance are revised. Requirements for the content of the parent notice are stipulated and consent must be obtained prior to accessing such benefits for the first time. Notice must be provided prior to accessing benefits for the first time and annually thereafter.

Rule 6A-6.0331, F.A.C., is being revised to include the consent provisions specified in the newly created Section 1003.5715, Florida Statutes, *Parental consent; individual education plan*, and to add clarification regarding actions required prior to an evaluation within a multi-tiered system of supports. The revision also updates references to “exceptional student education (ESE)” and “special education and related services” in order to ensure the inclusion of gifted education as applicable and provide consistency with other state requirements. The following changes are proposed:

- Updating of language regarding multi-tiered system of support and data-based problem solving.
- Establishment of a timeline (20 school days) for obtaining parental consent when a parent suspects that their child has a disability and requests that an evaluation be conducted; or when a school-based problem solving team determines that a student is responding to intensive interventions but requires resources and services beyond those available in general education, or has not made adequate growth despite effective core instruction and intensive interventions.
- Establishment of a timeline for the completion of an evaluation for a student suspected of being gifted. The timeline must be specified in the district’s *ESE Policies and Procedures* document but may not exceed 90 school days that the student is in attendance following the district’s receipt of parental consent
- Increased parental rights regarding a child’s participation in access points curriculum, the Florida Alternate Assessment, and placement in an ESE center school. Parents will be asked to provide informed written consent for such actions. Districts will only be able to proceed with such actions if the parent provides written consent, fails to respond to documented reasonable efforts to obtain consent, or if approval is obtained through a due process hearing.
- Adoption of forms by the Department that must be used to obtain parental consent for the actions described above.

Rule 6A-6.03311, F.A.C., currently states requirements for school districts related to the procedural safeguards and due process procedures regarding prior written notice, the provision of safeguards to parents, parents’ opportunity to review education records, mediation, state complaint procedures, independent educational evaluations, parental placement of ESE students in private schools, the transfer of parental rights at the age of majority, and due process hearing and resolution sessions. The following changes are proposed:

- Upon a school district superintendent’s recommendation to the commissioner of education that an extraordinary exemption for a given state assessment be granted or denied, a parent must be given a copy of their procedural safeguards.
- The Department of Education provides parents and other interested persons the opportunity to resolve complaints that a school district has violated state requirements related to the education of students with disabilities. Currently, this rule solely addresses violations of the Individuals with Disabilities Education Act (IDEA).

- A due process hearing request may be made by a parent or school district for a matter relating to an eligibility determination. Currently, a due process hearing may be initiated in matters relating to identification, evaluation, educational placement of the student, or the provision of a free appropriate public education.
- In accordance with the provisions of Section 1008.212, Florida Statutes, if the commissioner denies an extraordinary exemption from participation in a statewide assessment, a parent may request an expedited due process hearing. If requested, the Department of Education must inform the parent of any free or low cost legal services, and must arrange the hearing with the Division of Administrative Hearings. This hearing must begin within 20 school days following receipt of the request and the administrative law judge must make a determination within 10 school days after the completed hearing.

Supporting Documentation Included: Proposed Rules 6A-6.03028, Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities; 6A-6.0331, General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services; 6A-6.03311, Procedural Safeguards and Due Process Procedures for Parents and Students with Disabilities; Model Communication Plan Form 313189; Parental Consent Form - Instruction in State Standards Access Points Curriculum and Florida Alternate Assessment Administration, Form 313181, and Parental Consent Form - Student Placement in an ESE Center School, Form 313182

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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, Florida Statutes, ~~the Individuals with Disabilities Education Act, 20 USC Section 1400, et. seq (IDEA), its implementing federal regulations at 34 CFR Subtitle B, part 300 et.seq, which is hereby incorporated by reference to become effective with the effective date of this rule,~~ and under 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 ~~under Rules 6A-6.03011 through 6A-6.0361, F.A.C.~~

(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) No change.

(3) IEP Requirements. An IEP ~~or individual family support plan (IFSP)~~ 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 ~~1003.43~~ and 1003.4282, Florida Statutes ~~1004.428~~, F.S., 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. through (d) No change.

(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. ~~these rules~~, 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) No change.

(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 districtwide 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 [insert link] 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. through 12. No change.

(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., ~~state~~ 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)~~3.6~~, F.S. If the IEP Team determines that the student will take ~~an~~ the Florida ~~A~~alternate ~~A~~assessment instead of other statewide standardized assessments ~~the regular state~~ or an alternate district assessment of student achievement ~~or part of an assessment~~, the IEP must include a statement of why the student can not participate in other statewide standardized assessments or district ~~the regular~~ assessments and why the particular alternate assessment selected is appropriate for the student. If a student does not participate in the statewide regular state 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)~~(e)6~~, 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 ~~Commissioner of Education~~ 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 postsecondary 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 and Rules 6A-6.03011 through 6A-6.0361, F.A.C., 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) through (p) No change.

(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. ~~Must obtain informed written parental consent each time that access to public benefits or insurance is initially sought and notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents. Parental consent must be obtained each time services are changed.~~

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 Rule 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. through (t) No change.

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, ~~12-15-09~~.

6A-6.0331 General Education Intervention Procedures, Identification, Evaluation, Determination of Eligibility, Reevaluation and the Initial 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 ~~school-age~~ 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., ~~specially designed instruction and related services~~ are identified, located, and evaluated, and ~~FAPE appropriate exceptional student education~~ 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 ~~through 6A-6.0361, F.A.C.~~ ESE includes specially designed instruction as defined in paragraph (1)(j) 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 ~~Exceptional Student Education (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 ~~coordinated general education intervention procedures for students who need additional~~ 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 ~~such procedures~~, a school district may carry out problem solving activities that include the provision of educational and behavioral evaluations, services, and supports, including ~~scientifically~~ 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 ~~software~~. 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 ~~specially designed instruction~~ 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, ~~or for students who are not enrolled in a public school.~~

(a) Parent involvement in general education intervention procedures. Opportunities for parents to be involved in a data-based problem solving ~~the~~ 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, ~~of~~ the student's responses to instruction and interventions, modification of ~~supporting data and potential adjustments to~~ the interventions, and ~~of~~ anticipated future action to address the student's learning and/or behavioral needs areas of concern. Documentation of parental involvement and communication must be maintained.

(b) through (d) No change.

(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, ~~among other things,~~ 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, ~~reasonable period of time~~ 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) No Change.

(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 ~~procedures~~ for students in kindergarten through grade twelve (12) who are not currently identified as needing special education and ~~or~~ related services but who need additional support to succeed in the general education environment. Funds made available to carry out this ~~paragraph section~~ 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 section~~. 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 section~~ 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) ~~A review of~~ 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 ~~or~~ 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.

~~Prior to a school district request for initial evaluation, 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. For a student suspected of being a student with a disability, the general education intervention procedures have been implemented as required under this rule and indicate that the student should be considered for eligibility for ESE; or~~

~~2. 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.~~

(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) (b) As described in subparagraph (3)(a)3. of this rule, if a the parent of the child receiving general education interventions requests, prior to the completion of these interventions, 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 specially designed instruction 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. Must Obtain consent for and conduct the evaluation; or and~~

~~2. Provide the parent with written notice in accordance with Rule 6A-6.03311, F.A.C., explaining its refusal to conduct the evaluation. Complete the activities described in subsection (1) of this rule concurrently with the evaluation but prior to the determination of the student's eligibility for specially designed instruction; or~~

~~3. Must provide the parent with written notice of its refusal to conduct the evaluation that meets the requirements of Rule 6A-6.03311, F.A.C.~~

~~(d)(e)~~ 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)~~ ~~(e)~~ 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 Rule 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)~~ ~~(f)~~ 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)~~~~(g)~~ 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 Rule 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 ~~to the parent~~ 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)~~ ~~(d)~~ For initial evaluations only, if the child is a ward of the State and is not residing with the student's parent, 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 XI, 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)~~~~(e)~~ 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 Rules ~~6A-6.03311 6A-6.03011 through 6A-6.0361~~, F.A.C. The school district does not violate its child find ~~or evaluation~~ obligations if it declines to pursue the evaluation.

~~(g)~~ ~~(f)~~ 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 ~~that~~ 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) through (f) No change.

(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 ~~category in which the student is classified~~.

(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. ~~If a determination is made that a student is an exceptional student and needs ESE, an IEP or EP must be developed for the student in accordance with these rules.~~

(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/instruction~~ 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 ~~carefully considered~~; 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 Rules ~~6A-6.03028 6A-6.03011 through 6A-6.0361~~, 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) through (e) No change.

(f) For students identified as gifted, an ~~educational plan (EP)~~ in accordance with Rule 6A-6.030191, F.A.C., shall be developed.

(7) through (8)(h) No change.

(i) To meet the reasonable efforts requirements to obtain parental consent ~~in Rules 6A-6.03011 through 6A-6.0361, F.A.C.~~, 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 Rule 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 ~~special education and related services~~ to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of ESE ~~services~~ to the student.

(c) If the parent of a student fails to respond or refuses to consent to the initial provision of ESE ~~services~~, 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 ~~special education and related services~~, or the parent fails to respond to a request to provide consent for the initial provision of ESE ~~special education and related services~~, 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 ~~special education and related services~~ 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 ~~special education and related services~~ for which the school district requests such consent.

(e) If, at any time subsequent to the initial provision of ESE ~~special education and related services~~, the parent of a student revokes consent in writing for the continued provision of ESE ~~special education and related services~~, the school district may not continue to provide ESE ~~special education and related services~~ to the student, but must provide prior written notice before ceasing the provision of ESE ~~special education and related services~~. 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 special education and related services, 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 special education and related services; 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 special education and related services.

(g) If a parent of a student with a disability revokes consent in writing for their child's receipt of ESE special education services after the initial provision of ESE special education and related services 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 special education and related services 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 Rule 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 Rule 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, Florida Statutes, 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), Florida Statutes, placement of the student in an exceptional student education center as defined in Rule 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, 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, 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.fl DOE.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 subparagraph (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 Rule 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,

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) through (c)3. No change.

4. A statement that the parents of a student with a disability have protection under the procedural safeguards of this ~~these~~ rules 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. through 7. No change.

(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 ~~Rules 6A-6.03011 through 6A-6.0361, F.A.C.~~, relating to:

1. through 11. No change.

(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; ~~and~~

4. Upon request by a parent; ~~and~~ ;

5. In accordance with the provisions of Section 1008.212, Florida Statutes, 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) through (4) No change.

(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) through (7)(c) No change.

(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 student 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 Rules 6A-6.03011 through 6A-6.0361, F.A.C., 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 section, 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. paragraph (i) of this section 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 Rules 6A-6.03011 through 6A-6.0361, F.A.C., is retained as a shared right of the parent and the student.

(b) through 3. No change.

(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) through (c) No change.

(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. through (h) No change.

(i) School district response to a due process hearing request. If the school district has not sent a prior written notice under this rule ~~Rules 6A-6.03011 through 6A-6.0361, F.A.C.~~, 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. through (x)c.
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 ~~Rules 6A-6.03011 through 6A-6.0361, F.A.C.~~ 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. through (y) No change.

Rulemaking Specific Authority 1001.02(1), (2)(n), 1003.01(3), 1003.57, 1003.571, 1003.5715, 1008.212 FS. Law Implemented ~~1001.03(8), 1001.42(4)(d), 1003.01(3), 1003.57, 1003.571, 1003.5715, 1008.212 1011.62(1)(e)~~ 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, Cf. P.L. 105-17, 20 USC 1414 and 1415



Model Communication Plan

Student:

DOB: 00 / 00 / 0000

School:

Grade: Grade

Primary Area of Eligibility:

Secondary Area(s) of Eligibility (if applicable):

Date Model Communication Plan Was Completed: 00 / 00 / 0000

I. CONSIDER THE STUDENT'S LANGUAGE AND COMMUNICATION

1. The student's primary language is one or more of the following (check all that apply):

Receptive	Expressive	
<input type="checkbox"/>	<input type="checkbox"/>	No formal language
<input type="checkbox"/>	<input type="checkbox"/>	Spoken language
<input type="checkbox"/>	<input type="checkbox"/>	Sign language

2. The student's method(s) to access and use language is one or more of the following (check all that apply):

Receptive	Expressive	
<input type="checkbox"/>	<input type="checkbox"/>	Auditory/oral methods (spoken language)
<input type="checkbox"/>	<input type="checkbox"/>	American Sign Language (ASL)
<input type="checkbox"/>	<input type="checkbox"/>	Signed supported speech
<input type="checkbox"/>	<input type="checkbox"/>	Bilingual/bimodal ASL/English
<input type="checkbox"/>	<input type="checkbox"/>	English sign system
<input type="checkbox"/>	<input type="checkbox"/>	Gestures/home signs
<input type="checkbox"/>	<input type="checkbox"/>	Tactile sign
<input type="checkbox"/>	<input type="checkbox"/>	Cued speech
<input type="checkbox"/>	<input type="checkbox"/>	Reading print
<input type="checkbox"/>	<input type="checkbox"/>	Assistive technology (AT) – communication devices/systems
<input type="checkbox"/>	<input type="checkbox"/>	Emerging language or no formal language established

3. How do the parents currently communicate with the student? Describe language(s) and communication modes the parents use with the student. Document how information about communication with family was gathered.

4. What (if any) language and communication development services is the student receiving outside of the school?

5. Describe the student’s receptive and expressive language(s) communication skills based on formal and informal language and communication assessment results (e.g., phonics and phonemic awareness, vocabulary, comprehension, fluency, morphology, grammar, pragmatics, sign language literacy).

6. What (if any) other factors influence language and communication development, such as physical or cognitive factors?

7. What action is needed in the home to help the family effectively communicate with the child?

II. CONSIDERATIONS FOR ACCOMMODATIONS AND ASSISTIVE TECHNOLOGY

In this section, using the results of a functional listening evaluation (FLE) in educational environments, discuss the student’s auditory and visual access, current use of accommodations and/or AT to access the curriculum and participation in classroom and school activities. Determine the accommodations and/or AT required to increase and maintain proficiency in meeting state standards.

1. Consider auditory access – what does the student currently use and what supports are required?
 - No amplification (skip to question 4)
 - Personal amplification
 - Personally owned hearing aid(s)
 - School-provided hearing aid(s)
 - Hearing implant(s) (Baha, cochlear, etc.) _____
 - Assistive listening device
 - Personally owned device _____
 - School-provided FM system/auditory trainer
 - School-provided soundfield system

2. Is the amplification and/or AT device used consistently?
 - Yes
 - No

Explain how amplification is monitored.

 - Daily hearing technology checks by school staff
 - Independent monitoring by the student

3. Describe the student's skill level and level of independence in their use of amplification and/or AT devices and any actions needed (e.g., monitoring, training) for the student and/or staff to ensure the student's effective use of their accommodations.

4. Visual access considerations – what does the student currently use and what supports are required? Refer to the student's present level of reading and writing skills when considering written visual supports.
 - None (skip to Section III)
 - Note taking
 - Copies of text and work materials
 - Captioned media
 - Captioning services (CART, C-Print, Typewell)
 - Alternative/AT communication devices (specify)
 - Sign language interpreter/transliterators
 - Other, please describe:

5. Describe the student's skill in utilizing support staff or accommodations (such as an interpreter, captionist, etc.) and any actions needed (e.g., monitoring, training) for the student and/or staff to ensure the student's effective use of their accommodations.

6. Safety considerations
 - Videophones
 - Visual alerts and alarms
 - Other, please describe:

III. CONSIDER ACADEMIC LEVEL AND READINESS TO ENGAGE IN THE CURRICULUM

1. Does the student have the communication and language necessary to be proficient in the general education curriculum, or, if the student is accessing the general education curriculum through alternate standards and participates in the alternate assessment, does the student have the communication and language skills needed to show proficiency? Yes No
 If yes, what supports are needed to **continue** proficiency in grade-level academic skills and concepts of the general education curriculum?

If no, what supports are needed to **increase** the student's proficiency in his/her language and communication to acquire grade-level academic skills and concepts of the general education curriculum?

2. Is the student on grade-level for reading? Yes No

If no, what is the student's independent reading/fluency level?

What action is needed to ensure access to content at the student's independent reading/fluency level?

3. Is the student on grade-level for writing? Yes No

If no, what is the student's independent writing level?

4. Is the student able to participate in classroom activities, raise their hand, engage in lessons, etc.?

5. What accommodations (if any) are needed to allow the student to fully participate in reading and writing activities in the classroom?

IV. CONSIDER OPPORTUNITIES FOR DIRECT COMMUNICATION WITH PEERS AND PROFESSIONAL PERSONNEL AND OPPORTUNITIES FOR INSTRUCTION IN THE STUDENT'S LANGUAGE AND COMMUNICATION NEEDS (Definition of "direct communication": Direct language/communication/instruction occurs person to person, not through an additional source [e.g., educational interpreter, captioner].)

1. Describe how the student communicates with peers and opportunities for **direct** communication with peers (hearing and other deaf/hard of hearing peers).

2. Describe how the student communicates with adults in the school environment and opportunities for **direct** communication with professional staff and other school personnel.

3. Describe opportunities for **direct** instruction; describe how the curriculum is delivered through direct instruction using the language and communication methods identified in Section I and/or through the use of qualified support staff.

4. If staff are not currently available at the school site or do not have the qualifications to provide direct language and communication instruction identified in Section I, describe the actions to provide qualified staff or place the student in the environment most conducive for language development and educational success.

V. CONSIDERATIONS REGARDING THE FULL RANGE OF NEEDS

Title 34, Code of Federal Regulations (CFR) section 300.117, requires accessibility to all components of the educational process, including school-sponsored activities (e.g., related services, assemblies, field trips, extracurricular activities, athletics).

1. What services or accommodations are needed to allow for communication access to all educational components of the school (regular education classes, related services, etc.)?

2. What services or accommodations are needed to allow for communication access to all other components of school activities (school counselors, recess, lunch, assemblies, extracurricular activities, etc.)?

Florida Department of Education
Parental Consent Form
Instruction in the State Standards Access Points Curriculum and
Florida Alternate Assessment Administration



Student: _____ Date: _____

Student D.O.B.: _____ Parent(s) Name: _____

District: _____ School: _____

I understand that, as a participant of the individual educational plan (IEP) team, I have the right to consent or refuse consent for my child (or myself, if I am an adult student) to be provided instruction in the state standards access points curriculum and to be administered the Florida Alternate Assessment (FAA) (if applicable, based on my child's grade level).

Based on Section 1003.5715, Florida Statutes, I understand that the _____ County School District may not provide instruction in the state standards access points curriculum and administer the FAA unless I have provided written consent on this form; or the school district made documented and reasonable efforts to obtain my consent, and I have failed to respond; or the school district obtains approval through a due process hearing and/or appeals process. I understand that, during the pendency of a due process hearing or appellate proceeding regarding a due process complaint, my child will remain in his or her current educational assignment while awaiting the decision of any impartial due process hearing or court proceeding, unless the school district and I otherwise agree.

My consent is being sought because the IEP team has determined that the proposed actions are necessary in order for my child to receive a free appropriate public education. If I refuse to consent to the proposed actions, my child may not receive all the services and supports that the IEP team has determined are needed, which may impact my child's educational progress. I understand that, if I give consent, my child will not be eligible for a standard high school diploma but may receive instruction within the general education setting based on his or her IEP. I understand that access to future opportunities such as enrollment in college or enlistment in the military may be limited if my child does not have a standard high school diploma. This consent will remain in effect until the next annual review of the IEP, or until the next IEP meeting if instruction in state standards access points curriculum and administration of the FAA is addressed, whichever event occurs first.

I consent for the provision of instruction in the state standards access points curriculum and administration of the FAA (if applicable, based on my child's grade level).

Parent signature Date Parent signature Date

I do not consent for the provision of instruction in the state standards access points curriculum and administration of the FAA (if applicable, based on my child's grade level).

Parent signature Date Parent signature Date

If you sign "I do not consent for placement," within ten school days, the school district must develop and implement new instruction and assessment procedures in accordance with a new IEP **or** must request a due process hearing.

As a parent of a student with a disability, you have specific rights and protections that are described in the *Notice of Procedural Safeguards for Parents of Students with Disabilities*. To receive a copy, or for assistance understanding your rights, contact:

_____ at _____ OR _____ at _____
(District designee) (Telephone/email) (Alternate contact) (Telephone/email)

Documentation of attempts to obtain consent:

1. Date Sent/Method Used: _____

2. Date Sent/Method Used: _____

**Florida Department of Education
Parental Consent Form
Student Placement in an Exceptional Education Center**



Student: _____ Date: _____

Student D.O.B.: _____ Parent(s) Name: _____

District: _____ School: _____

I understand that, as a participant of the individual educational plan (IEP) team, I have the right to consent or refuse consent for my child (or myself, if I am an adult student) to be placed in an exceptional student education (ESE) center, except in circumstances when a placement is made in an ESE center school related to specific violations of the district's code of student conduct. An ESE center or special day school means a separate public school to which nondisabled peers in grades kindergarten through 12 do not have access.

Based on Section 1003.5715, Florida Statutes, I understand that the _____ County School District may not place my child in an ESE center unless I have provided written consent on this form; or the district has made documented and reasonable efforts to obtain my consent and I have failed to respond; or the school district obtains approval through a due process hearing and/or appeals process. I understand that, during the pendency of a due process hearing or appellate proceeding regarding a due process complaint, my child will remain in his or her current educational assignment while awaiting the decision of any impartial due process hearing or court proceeding, unless the school district and I otherwise agree.

My consent is being sought because the IEP team has determined that the proposed action is necessary in order for my child to receive a free appropriate public education. If I refuse to consent to the proposed actions, my child may not receive all the services and supports that the IEP team has determined are needed, which may impact my child's educational progress. I understand that if I give consent, my child will not participate in an educational setting with nondisabled peers, but will have access to intensive services as determined necessary by the IEP team. This consent will remain in effect until the next annual IEP review or until the next IEP meeting when ESE center school placement is specifically addressed, whichever event occurs first.

I consent for placement in an ESE center.

_____	_____	_____	_____
Parent signature	Date	Parent signature	Date

I do not consent for placement in an ESE center.

_____	_____	_____	_____
Parent signature	Date	Parent signature	Date

If you sign "I do not consent for placement," within ten school days, the school district must develop and implement a new placement in accordance with a new IEP or must request a due process hearing.

As a parent of a student with a disability, you have specific rights and protections that are described in the *Notice of Procedural Safeguards for Parents of Students with Disabilities*. To receive a copy, or for assistance understanding your rights, you may contact:

_____ at _____ OR _____ at _____
 (District designee) (Telephone/email) (Alternate contact) (Telephone/email)

Documentation of attempts to obtain consent:

1. Date Sent/Method Used: _____

2. Date Sent/Method Used: _____