

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1584
INTRODUCER: Senator Sobel
SUBJECT: Deaf and Hard-of-hearing Children
DATE: March 31, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Favorable
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the "Deaf and Hard-of-Hearing Children's Education Bill of Rights." It requires the Department of Education to develop model communication considerations for students who are deaf or hard-of-hearing. The model would become a part of the individual educational plan process for a student who is deaf or hard-of-hearing.

This bill creates an undesignated section of law.

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant

¹ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

² 34 C.F.R. s. 300.149

programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21. It also authorizes pre-school state grants for children with disabilities, ages 3 through 5. Part C authorizes infant and toddler state grants for early intervention services, for infants and toddlers with disabilities from birth through 36 months.³

Beginning with the 1997-1998 school year, districts were required to complete a matrix of services for every exceptional student at least annually to calculate school district funding based on the intensity of services provided to ESE students.⁴ In 2000, the Florida Education Finance Program (FEFP) for ESE programs was revised to require a matrix for exceptional students funded at the highest level of need, support levels 4 and 5.⁵

Consistent with the services identified through the IEP or IFS, a matrix of services is used to determine which one of two cost factors would apply to each eligible exceptional education student and the support level needed. The matrix document contains checklists of services in each of the five domains (curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication) and a special considerations section. The sum of these domain ratings and any special considerations points corresponds to one of the two cost factors.

Children with Hearing Impairments

In the fall of 2010, 3,586 students were identified as deaf or hard-of-hearing.⁶ Children with disabilities, including those who are deaf or hard-of-hearing, may receive ESE services if they meet specific requirements. Educational options for students with hearing impairments have expanded significantly in the last 30 years in that students are increasingly attending traditional schools and being educated in general education classrooms.⁷ Other developments have changed the classroom experiences of students with hearing impairments in the last three decades as well, including the evolution of implant technology and technologies such as visual or text communication devices and speech-to-print software.

In developing an IEP, the IEP team considers the child's strengths, the concerns of the parents for enhancing the education of their child, the results of the initial evaluation or most recent evaluation of the child, the academic, developmental, and functional needs of the child, as well as special factors.⁸

³ Part C is administered by the Florida Department of Health (DOH), pursuant to s. 391.308, F.S.

⁴ Section 43, ch. 97-307, L.O.F.

⁵ ch. 2000-171, L.O.F. Pursuant to s. 1011.62(1)(c), F.S., the Commissioner of Education must specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors. Levels 1 through 3 represent the lowest level of service. For these students, school districts receive an ESE Guaranteed Allocation in addition to the base funding in the FEFP. The matrix is also used to determine the support levels for these students.

⁶ DOE, March 28, 2011, DOE State Student Information Database, Survey 2.

⁷ *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, U.S. Department of Education Institute of Education Sciences National Center for Special Education Research, February 2011.

⁸ 20 U.S.C. § 1414(d)(3)(A) and (B).

III. Effect of Proposed Changes:

The bill creates the "Deaf and Hard-of-Hearing Children's Education Bill of Rights" that incorporates provisions in state and federal law and rule for placement in the least restrictive educational environment, instructional quality, participation in extracurricular services and athletics, and the delivery of transition services.

Under the bill, the Department of Education (DOE) would develop a model "communication considerations for students who are deaf or hard-of-hearing" to become a part of the IEP process. As written, the sentence is unclear. It appears that the intent is to identify communication factors to be considered when developing the IEP. For a child who is deaf or hard of hearing, current law requires that the IEP team consider special factors: the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.⁹

The DOE would disseminate the model to school districts and provide training, as determined by the agency.

States with a Deaf or Hard of Hearing Bill of Rights include Delaware, Georgia, and New Mexico.¹⁰

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁹ 20 U.S.C. s. 1414(d)(3)(B)(iv) and Rule 6A-6.03028(3)(g)9., F.A.C.

¹⁰ 14 Del.C. § 3112, Ga. Code Ann., § 20-2-152.1, and N. M. S. A. 1978, § 28-11C-2,

C. Government Sector Impact:

The DOE indicates that implementation of this bill would require rule amendment, specifically to Rule 6A-6.03028, F.A.C., Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities. The DOE would have to expend some resources in model plan development. Dissemination to school districts statewide would probably result in little, if any, fiscal impact. The provision of training appears permissive, and therefore, fiscal impact is indeterminate.

VI. Technical Deficiencies:

The bill uses the terms “deaf and hard-of-hearing” and “deaf or hard-of-hearing” interchangeably. To be consistent with federal and state law, the term “deaf and hard-of-hearing” should be changed to “deaf or hard-of-hearing.”¹¹ On line 33, the word “deaf” should be changed to “Deaf.”

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹¹ See s. 1003.01(3)(a), F.S. and 20 U.S.C. § 1414(d)(3)(B)(iv).