

By Senators Gardiner and Thrasher

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1 A bill to be entitled
2 An act relating to exceptional student education;
3 amending s. 1002.20, F.S.; prohibiting certain actions
4 with respect to parent meetings with school district
5 personnel; providing requirements for meetings
6 relating to exceptional student education and related
7 services; amending s. 1002.33, F.S.; providing
8 requirements for the reimbursement of federal funds to
9 charter schools; amending s. 1002.41, F.S.; requiring
10 a school district to provide exceptional student
11 education-related services to certain home education
12 program students; requiring reporting and funding
13 through the Florida Education Finance Program;
14 amending s. 1003.57, F.S.; requiring a school district
15 to use specified terms to describe the instructional
16 setting for certain exceptional students; defining the
17 term "inclusion" for purposes of exceptional student
18 instruction; providing for determination of
19 eligibility as an exceptional student; requiring
20 certain assessments to facilitate inclusive
21 educational practices for exceptional students;
22 creating s. 1003.5715, F.S.; requiring the use of
23 parental consent forms for specified actions in a
24 student's individual education plan; providing
25 requirements for the consent forms; providing
26 requirements for changes in a student's individual
27 education plan; requiring the State Board of Education
28 to adopt rules; creating s. 1003.572, F.S.; defining
29 the term "private instructional personnel";

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30 encouraging the collaboration of public and private
31 instructional personnel and providing requirements
32 therefor; amending s. 1003.58, F.S.; conforming a
33 cross-reference; creating s. 1008.3415, F.S.;
34 requiring an exceptional student education center to
35 choose to receive a school grade or school improvement
36 rating; excluding student assessment data from the
37 calculation of a home school's grade under certain
38 circumstances; requiring the State Board of Education
39 to adopt rules; amending s. 1012.585, F.S.; providing
40 requirements for renewal of a professional certificate
41 relating to teaching students with disabilities;
42 authorizing the State Board of Education to adopt
43 rules; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Paragraph (a) of subsection (21) of section
48 1002.20, Florida Statutes, is amended to read:

49 1002.20 K-12 student and parent rights.—Parents of public
50 school students must receive accurate and timely information
51 regarding their child's academic progress and must be informed
52 of ways they can help their child to succeed in school. K-12
53 students and their parents are afforded numerous statutory
54 rights including, but not limited to, the following:

55 (21) PARENTAL INPUT AND MEETINGS.—

56 (a) *Meetings with school district personnel.*—Parents of
57 public school students may be accompanied by another adult of
58 their choice at any meeting with school district personnel.

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59 School district personnel may not object to the attendance of
60 such adult or discourage or attempt to discourage, through any
61 action, statement, or other means, parents from inviting another
62 person of their choice to attend any meeting. Such prohibited
63 actions include, but are not limited to, attempted or actual
64 coercion or harassment of parents or students or retaliation or
65 threats of consequences to parents or students.

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

77 2. The parents and school district personnel attending the
78 meeting shall sign a document at the meeting's conclusion which
79 states whether any school district personnel have prohibited,
80 discouraged, or attempted to discourage the parents from
81 inviting a person of their choice to the meeting.

82 Section 2. Paragraph (c) of subsection (17) of section
83 1002.33, Florida Statutes, is amended to read:

84 1002.33 Charter schools.—

85 (17) FUNDING.—Students enrolled in a charter school,
86 regardless of the sponsorship, shall be funded as if they are in
87 a basic program or a special program, the same as students

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88 enrolled in other public schools in the school district. Funding
89 for a charter lab school shall be as provided in s. 1002.32.

90 (c) If the district school board is providing programs or
91 services to students funded by federal funds, any eligible
92 students enrolled in charter schools in the school district
93 shall be provided federal funds for the same level of service
94 provided students in the schools operated by the district school
95 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
96 charter schools shall receive all federal funding for which the
97 school is otherwise eligible, including Title I funding, not
98 later than 5 months after the charter school first opens and
99 within 5 months after any subsequent expansion of enrollment.
100 Unless otherwise mutually agreed to by the charter school and
101 its sponsor, and consistent with state and federal rules and
102 regulations governing the use and disbursement of federal funds,
103 the sponsor shall reimburse the charter school on a monthly
104 basis for all invoices submitted by the charter school for
105 federal funds available to the sponsor for the benefit of the
106 charter school, the charter school's students, and the charter
107 school's students as public school students in the school
108 district. Such federal funds include, but are not limited to,
109 Title I, Title II, and Individuals with Disabilities Education
110 Act (IDEA) funds. To receive timely reimbursement for an
111 invoice, the charter school must submit the invoice to the
112 sponsor at least 30 days before the monthly date of
113 reimbursement set by the sponsor. In order to be reimbursed, any
114 expenditures made by the charter school must comply with all
115 applicable state rules and federal regulations, including, but
116 not limited to, the applicable federal Office of Management and

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117 Budget Circulars, the federal Education Department General
118 Administrative Regulations, and program-specific statutes,
119 rules, and regulations. Such funds may not be made available to
120 the charter school until a plan is submitted to the sponsor for
121 approval of the use of the funds in accordance with applicable
122 federal requirements. The sponsor has 30 days to review and
123 approve any plan submitted pursuant to this paragraph.

124 Section 3. Subsection (10) is added to section 1002.41,
125 Florida Statutes, to read:

126 1002.41 Home education programs.—

127 (10) A school district shall provide exceptional student
128 education-related services, as defined in State Board of
129 Education rule, to a home education program student with a
130 disability who is eligible for the services and who enrolls in a
131 public school for the purpose of receiving those related
132 services. The school district providing the services shall
133 report each such student as a full-time equivalent student in a
134 manner prescribed by the Department of Education, and funding
135 shall be provided through the Florida Education Finance Program
136 pursuant to s. 1011.62.

137 Section 4. Subsection (1) of section 1003.57, Florida
138 Statutes, is amended to read:

139 1003.57 Exceptional students instruction.—

140 (1) (a) For purposes of providing exceptional student
141 instruction under this section:

142 1. A school district shall use the following terms to
143 describe the instructional setting for a student with a
144 disability, 6 through 21 years of age, who is not educated in a
145 setting accessible to all children who are together at all

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146 times:

147 a. "Exceptional student education center" or "special day
148 school" means a separate public school to which nondisabled
149 peers do not have access.

150 b. "Other separate environment" means a separate private
151 school, residential facility, or hospital or homebound program.

152 c. "Regular class" means a class in which a student spends
153 80 percent or more of the school week with nondisabled peers.

154 d. "Resource room" means a classroom in which a student
155 spends between 40 percent to 80 percent of the school week with
156 nondisabled peers.

157 e. "Separate class" means a class in which a student spends
158 less than 40 percent of the school week with nondisabled peers.

159 2. A school district shall use the term "inclusion" to mean
160 that a student is receiving education in a general education
161 regular class setting, reflecting natural proportions and age-
162 appropriate heterogeneous groups in core academic and elective
163 or special areas within the school community; a student with a
164 disability is a valued member of the classroom and school
165 community; the teachers and administrators support universal
166 education and have knowledge and support available to enable
167 them to effectively teach all children; and a student is
168 provided access to technical assistance in best practices,
169 instructional methods, and supports tailored to the student's
170 needs based on current research.

171 (b) Each district school board shall provide for an
172 appropriate program of special instruction, facilities, and
173 services for exceptional students as prescribed by the State
174 Board of Education as acceptable, including provisions that:

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175 1. The district school board provide the necessary
176 professional services for diagnosis and evaluation of
177 exceptional students.

178 2. The district school board provide the special
179 instruction, classes, and services, either within the district
180 school system, in cooperation with other district school
181 systems, or through contractual arrangements with approved
182 private schools or community facilities that meet standards
183 established by the commissioner.

184 3. The district school board annually provide information
185 describing the Florida School for the Deaf and the Blind and all
186 other programs and methods of instruction available to the
187 parent of a sensory-impaired student.

188 4. The district school board, once every 3 years, submit to
189 the department its proposed procedures for the provision of
190 special instruction and services for exceptional students.

191 (c) ~~(b)~~ A student may not be given special instruction or
192 services as an exceptional student until after he or she has
193 been properly evaluated and found eligible as an exceptional
194 student, ~~classified, and placed~~ in the manner prescribed by
195 rules of the State Board of Education. The parent of an
196 exceptional student evaluated and found eligible or ineligible
197 ~~placed or denied placement in a program of special education~~
198 shall be notified of each such evaluation and determination
199 ~~placement or denial~~. Such notice shall contain a statement
200 informing the parent that he or she is entitled to a due process
201 hearing on the identification, evaluation, and eligibility
202 determination ~~placement~~, or lack thereof. Such hearings are
203 exempt from ss. 120.569, 120.57, and 286.011, except to the

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204 extent that the State Board of Education adopts rules
205 establishing other procedures. Any records created as a result
206 of such hearings are confidential and exempt from s. 119.07(1).
207 The hearing must be conducted by an administrative law judge
208 from the Division of Administrative Hearings pursuant to a
209 contract between the Department of Education and the Division of
210 Administrative Hearings. The decision of the administrative law
211 judge is final, except that any party aggrieved by the finding
212 and decision rendered by the administrative law judge has the
213 right to bring a civil action in the state circuit court. In
214 such an action, the court shall receive the records of the
215 administrative hearing and shall hear additional evidence at the
216 request of either party. In the alternative, in hearings
217 conducted on behalf of a student who is identified as gifted,
218 any party aggrieved by the finding and decision rendered by the
219 administrative law judge has the right to request a review of
220 the administrative law judge's order by the district court of
221 appeal as provided in s. 120.68.

222 (d)~~(e)~~ Notwithstanding any law to the contrary, during the
223 pendency of any proceeding conducted pursuant to this section,
224 unless the district school board and the parents otherwise
225 agree, the student shall remain in his or her then-current
226 educational assignment or, if applying for initial admission to
227 a public school, shall be assigned, with the consent of the
228 parents, in the public school program until all such proceedings
229 have been completed.

230 (e)~~(d)~~ In providing for the education of exceptional
231 students, the district school superintendent, principals, and
232 teachers shall utilize the regular school facilities and adapt

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233 them to the needs of exceptional students to the maximum extent
234 appropriate. To the extent appropriate, students with
235 disabilities, including those students in public or private
236 institutions or other facilities, shall be educated with
237 students who are not disabled. Segregation of exceptional
238 students shall occur only if the nature or severity of the
239 exceptionality is such that education in regular classes with
240 the use of supplementary aids and services cannot be achieved
241 satisfactorily.

242 (f) Once every 3 years, each school district and school
243 shall complete a Best Practices in Inclusive Education (BPIE)
244 assessment with a Florida Inclusion Network facilitator and
245 include the results of the BPIE assessment and all planned
246 short-term and long-term improvement efforts in the school
247 district's exceptional student education policies and
248 procedures. BPIE is an internal assessment process designed to
249 facilitate the analysis, implementation, and improvement of
250 inclusive educational practices at the district and school team
251 levels.

252 (g)~~(e)~~ In addition to the services agreed to in a student's
253 individual educational plan, the district school superintendent
254 shall fully inform the parent of a student having a physical or
255 developmental disability of all available services that are
256 appropriate for the student's disability. The superintendent
257 shall provide the student's parent with a summary of the
258 student's rights.

259 (h)~~(f)~~ School personnel may consider any unique
260 circumstances on a case-by-case basis when determining whether a
261 change in placement is appropriate for a student who has a

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262 disability and violates a district school board's code of
263 student conduct. School personnel may remove and place such
264 student in an interim alternative educational setting for not
265 more than 45 school days, without regard to whether the behavior
266 is determined to be a manifestation of the student's disability,
267 if the student:

268 1. Carries a weapon to or possesses a weapon at school, on
269 school premises, or at a school function under the jurisdiction
270 of the school district;

271 2. Knowingly possesses or uses illegal drugs, or sells or
272 solicits the sale of a controlled substance, while at school, on
273 school premises, or at a school function under the jurisdiction
274 of the school district; or

275 3. Has inflicted serious bodily injury upon another person
276 while at school, on school premises, or at a school function
277 under the jurisdiction of the school district.

278 (i)~~(g)~~ For purposes of paragraph (h)~~(f)~~, the term:

279 1. "Controlled substance" means a drug or other substance
280 identified under Schedule I, Schedule II, Schedule III, Schedule
281 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
282 812(c) and s. 893.02(4).

283 2. "Weapon" means a device, instrument, material, or
284 substance, animate or inanimate, which is used for, or is
285 readily capable of, causing death or serious bodily injury;
286 however, this definition does not include a pocketknife having a
287 blade that is less than 2 1/2 inches in length.

288 Section 5. Section 1003.5715, Florida Statutes, is created
289 to read:

290 1003.5715 Parental consent; individual education plan.-

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291 (1) The Department of Education shall adopt separate
292 parental consent forms that school districts must use for each
293 of the following actions in a student's individual education
294 plan (IEP):

295 (a) Administer to the student an alternate assessment
296 pursuant to s. 1008.22 and provide instruction in the state
297 standards access points curriculum.

298 (b) Place the student in an exceptional student education
299 center.

300 (2) In accordance with 34 C.F.R. s. 300.503, each form
301 shall be provided to the parent in the parent's native language,
302 as defined in 34 C.F.R. s. 300.29, and include the following:

303 (a) A statement that the parent is a participant of the
304 individual education plan team (IEP Team) and has the right to
305 consent or refuse consent to the actions described in subsection
306 (1). The statement shall include information that the refusal of
307 parental consent means that the school district may not proceed
308 with the actions described in subsection (1) without a school
309 district due process hearing in accordance with 34 C.F.R. ss.
310 300.507 and 300.508.

311 (b) A "does consent" box and a signature line.

312 (c) A "does not consent" box and a signature line.

313 (d) An informational statement of the benefits and
314 consequences of giving parental consent to the actions described
315 in subsection (1).

316 (3) A school district may not proceed with the actions
317 described in subsection (1) without parental consent unless the
318 school district documents reasonable efforts to obtain the
319 parent's consent and the child's parent has failed to respond or

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320 the school district obtains approval through a due process
321 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
322 resolution of appeals.

323 (4) Except for a change in placement described in s.
324 1003.57(1)(h), if a school district determines that there is a
325 need to change an exceptional student's IEP as it relates to
326 actions described in subsection (1), the school must hold an IEP
327 Team meeting that includes the parent to discuss the reason for
328 the change. The school shall provide written notice of the
329 meeting to the parent at least 10 days before the meeting,
330 indicating the purpose, time, and location of the meeting and
331 who, by title or position, will attend the meeting. The IEP Team
332 meeting requirement may be waived by informed consent of the
333 parent after the parent receives the written notice.

334 (5) For a change in actions described in subsection (1) in
335 a student's IEP, the school district may not implement the
336 change without parental consent unless the school district
337 documents reasonable efforts to obtain the parent's consent and
338 the child's parent has failed to respond or the school district
339 obtains approval through a due process hearing in accordance
340 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
341 appeals.

342 (6) Pursuant to 34 C.F.R. s. 300.518, during the pendency
343 of a due process hearing or appellate proceeding regarding a due
344 process complaint, the student shall remain in his or her
345 current educational assignment while awaiting the decision of
346 any impartial due process hearing or court proceeding, unless
347 the parent and the district school board otherwise agree.

348 (7) This section does not abrogate any parental right

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349 identified in the Individuals with Disabilities Education Act
350 (IDEA) and its implementing regulations.

351 (8) The State Board of Education shall adopt rules pursuant
352 to ss. 120.536(1) and 120.54 to implement this section,
353 including, but not limited to, developing parental consent
354 forms.

355 Section 6. Section 1003.572, Florida Statutes, is created
356 to read:

357 1003.572 Collaboration of public and private instructional
358 personnel.—

359 (1) As used in this section, the term "private
360 instructional personnel" means:

361 (a) Individuals certified under s. 393.17 or licensed under
362 chapter 490 or chapter 491 for applied behavior analysis
363 services as defined in ss. 627.6686 and 641.31098.

364 (b) Speech-language pathologists licensed under s.
365 468.1185.

366 (c) Occupational therapists licensed under part III of
367 chapter 468.

368 (d) Physical therapists licensed under chapter 486.

369 (e) Psychologists licensed under chapter 490.

370 (f) Clinical social workers licensed under chapter 491.

371 (2) The collaboration of public and private instructional
372 personnel shall be designed to enhance but not supplant the
373 school district's responsibilities under the Individuals with
374 Disabilities Education Act (IDEA). The school as the local
375 education agency shall provide therapy services to meet the
376 expectations provided in federal law and regulations and state
377 statutes and rules. Collaboration of public and private

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378 instructional personnel will work to promote educational
379 progress and assist students in acquiring essential skills,
380 including, but not limited to, readiness for pursuit of higher
381 education goals or employment. Where applicable, public and
382 private instructional personnel shall undertake collaborative
383 programming. Coordination of services and plans between a public
384 school and private instructional personnel is encouraged to
385 avoid duplication or conflicting services or plans.

386 (3) Private instructional personnel who are hired or
387 contracted by parents to collaborate with public instructional
388 personnel must be permitted to observe the student in the
389 educational setting, collaborate with instructional personnel in
390 the educational setting, and provide services in the educational
391 setting according to the following requirements:

392 (a) The student's public instructional personnel and
393 principal consent to the time and place.

394 (b) The private instructional personnel satisfy the
395 requirements of s. 1012.32 or s. 1012.321.

396 (4) The provision of private instructional personnel by a
397 parent does not constitute a waiver of the student's or parent's
398 right to a free and appropriate public education under IDEA.

399 Section 7. Subsection (3) of section 1003.58, Florida
400 Statutes, is amended to read:

401 1003.58 Students in residential care facilities.—Each
402 district school board shall provide educational programs
403 according to rules of the State Board of Education to students
404 who reside in residential care facilities operated by the
405 Department of Children and Family Services or the Agency for
406 Persons with Disabilities.

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407 (3) The district school board shall have full and complete
408 authority in the matter of the assignment and placement of such
409 students in educational programs. The parent of an exceptional
410 student shall have the same due process rights as are provided
411 under s. 1003.57(1)(c) ~~1003.57(1)(b)~~.

412
413 Notwithstanding the provisions herein, the educational program
414 at the Marianna Sunland Center in Jackson County shall be
415 operated by the Department of Education, either directly or
416 through grants or contractual agreements with other public or
417 duly accredited educational agencies approved by the Department
418 of Education.

419 Section 8. Section 1008.3415, Florida Statutes, is created
420 to read:

421 1008.3415 School grade or school improvement rating for
422 exceptional student education centers.-

423 (1) Each exceptional student education center shall choose
424 to receive a school grade pursuant to s. 1008.34 or a school
425 improvement rating pursuant to s. 1008.341.

426 (2) Notwithstanding s. 1008.34(3)(c)3., the achievement
427 scores and learning gains of a student with a disability who
428 attends an exceptional student education center and has not been
429 enrolled in or attended a public school other than an
430 exceptional student education center for grades K-12 within the
431 school district shall not be included in the calculation of the
432 home school's grade if the student is identified as an emergent
433 student on the alternate assessment tool described in s.
434 1008.22(3)(c)13.

435 (3) The State Board of Education shall adopt rules under

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436 ss. 120.536(1) and 120.54 to implement this section, including,
437 but not limited to, defining exceptional student education
438 centers.

439 Section 9. Paragraph (e) is added to subsection (3) of
440 section 1012.585, Florida Statutes, and subsection (6) is added
441 to that section, to read:

442 1012.585 Process for renewal of professional certificates.—

443 (3) For the renewal of a professional certificate, the
444 following requirements must be met:

445 (e) Beginning July 1, 2014, an applicant for renewal of a
446 professional certificate must earn a minimum of 1 college credit
447 or the equivalent inservice points in the area of instruction
448 for teaching students with disabilities. The requirement in this
449 paragraph may not add to the total hours required by the
450 department for continuing education or inservice training.

451 (6) The State Board of Education may adopt rules under ss.
452 120.536(1) and 120.54 to implement this section, including, but
453 not limited to, applicant renewal requirements.

454 Section 10. This act shall take effect July 1, 2013.