

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 1262

INTRODUCER: Senator Legg

SUBJECT: Education

DATE: April 17, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Graf</u>	<u>Klebacha</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Pre-meeting</b>

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## I. Summary:

SB 1262 deletes obsolete deadlines and streamlines communication and reporting of information by the Florida Department of Education (DOE) and the Commission for Independent Education (CIE). Specifically, the bill:

- Provides clarification regarding the use of an individual education plan (IEP) by requiring that the IEP and the electronic IEP system developed by the DOE be available for statewide use and deletes an obsolete, July 1, 2007, deadline.
- Deletes the obsolete, December 31, 2013, deadline for reporting of student data by the CIE to the DOE.
- Allows the Commissioner of Education's in personnel discipline proceedings regarding certified Florida educators the option, in lieu of finding probable cause, to issue a letter of guidance.

The bill has no fiscal impact.

## II. Present Situation:

### Individual Education Plans

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, including children with disabilities who have been suspended or expelled from school.<sup>1</sup> As the state educational agency, the Florida Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs

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<sup>1</sup> 20 U.S.C. s. 1400 et. seq., *as amended* by Pub. L. No. 108-446; 34 C.F.R. s. 300.17.

administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.<sup>2</sup>

For each eligible child with a disability served by a school district, or other state agency that provides special education and related services directly, by contract, or through other arrangements, an individual educational plan (IEP) or individual family support plan must be developed, reviewed, and revised.<sup>3</sup> In developing an IEP, the IEP team is required to consider a child's strengths, concerns of the parents for enhancing education, results of the initial evaluation or most recent evaluation of the child, and the academic, developmental, and functional needs of the child, as well as special factors.<sup>4</sup>

States receiving Individuals with Disabilities Education Act funds must comply with detailed procedural requirements, including identifying, evaluating, and making placements for students with disabilities and for developing an individualized education program for each student.<sup>5</sup> States must also provide students with disabilities and their parents with certain procedural safeguards, including:

- Notice of any proposal or refusal to change the student's identification, evaluation, or educational placement;
- The opportunity to present a complaint and to have an impartial due process hearing; and
- The right to keep the student in his or her current educational placement pending administrative or judicial review proceedings.<sup>6</sup>

A student with a disability and his or her parents also have the right to bring a civil action in state court, if they are aggrieved by the decision of the state administrative hearing officer relating to a due process hearing or alternative placement.<sup>7</sup>

### **Commission for Independent Education**

The Commission for Independent Education (CIE), established in the DOE, consists of seven members who are residents of this state.<sup>8</sup> The Governor appoints the members of the CIE who are subject to confirmation by the Senate.<sup>9</sup> The CIE is responsible for independently exercising all powers, duties, and functions concerning independent postsecondary educational institutions<sup>10</sup> in consumer protection, program improvement, and licensure of institutions under its purview.<sup>11</sup>

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<sup>2</sup> 34 C.F.R. s. 300.149.

<sup>3</sup> Rule 6A-6.03028(3), F.A.C.

<sup>4</sup> 20 U.S.C. s. 1414(d)(3)(A) and (B).

<sup>5</sup> 20 U.S.C. s. 1412. See also U.S. Department of Education, *Building the Legacy: IDEA 2004*, available at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalArea%2C12%2C> (last visited April 14, 2015).

<sup>6</sup> 20 U.S.C. s. 1415(b), (c), (d), (e), (f), and (j). There is an exception to keeping a student in his or her current placement if it involves an alternative educational setting.

<sup>7</sup> 20 U.S.C. s. 1415(i)(2).

<sup>8</sup> Section 1005.21(1) and (2), F.S.

<sup>9</sup> Section 1005.21(2), F.S., and Florida Department of Education, *Commission Members*, available at <http://www.fldoe.org/policy/cie/commission-members.stml> (last visited April 14, 2015).

<sup>10</sup> Independent postsecondary educational institution means "any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government." s. 1005.02(11), F.S.

<sup>11</sup> Section 1005.21(1) and (2), F.S.

The CIE is also responsible for authorizing the granting of diplomas and degrees by independent postsecondary educational institutions under its jurisdiction. The DOE serves as the administrative agent of the CIE by providing services, including payroll, procurement, and legal counsel.<sup>12</sup>

### **Personnel Discipline**

The DOE is required to investigate complaints of misconduct by certified educators.<sup>13</sup> The DOE must prioritize investigation of a legally sufficient complaint that “involves misconduct by any certificated personnel which affects the health, safety, or welfare of a student” over other pending complaints.<sup>14</sup> The DOE may contract with the Department of Business and Professional Regulation for conducting the investigations.<sup>15</sup> The DOE general counsel and staff must review the findings of such investigations and advise the Commissioner of Education (commissioner) regarding probable cause or lack thereof. The commissioner must make the determination of probable cause. Unless the complaint involves a felony or crime of moral turpitude, the commissioner may enter into a deferred prosecution agreement with a certified educator in lieu of finding probable cause. The commissioner must dismiss a complaint if probable cause does not exist to commence prosecution.<sup>16</sup>

### **III. Effect of Proposed Changes:**

The bill deletes obsolete deadlines and streamlines communication and reporting of information by the DOE and the CIE.

#### **Individual Education Plans (Section 1)**

The bill provides clarification regarding the use of an individual education plan (IEP) by requiring that the IEP and the electronic IEP system developed by the DOE be available for statewide use and deletes an obsolete deadline. Current law requires the IEP and the electronic IEP system be available for potential statewide use no later than July 1, 2007.<sup>17</sup>

#### **Commission for Independent Education (Section 2)**

The bill deletes an obsolete deadline for reporting of student data (e.g., retention rates, transfer rates, completion rates, graduation rates, and employment and earnings) by the CIE to the DOE. Specifically, the bill deletes December 31, 2013, as the deadline for submitting student data for 2012-2013 academic year and maintains October 1 as the annual deadline for reporting such data.

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<sup>12</sup> Section 1005.21(1), F.S.

<sup>13</sup> Section 1012.796(1), F.S.

<sup>14</sup> Section 1012.796(1)(b), F.S.

<sup>15</sup> Section 1012.796(2), F.S.

<sup>16</sup> Section 1012.796(3), F.S.

<sup>17</sup> Section 1003.576, F.S.

**Personnel Discipline (Section 3)**

The bill allows the commissioner the option, in lieu of finding probable cause, to issue a letter of guidance. Current law authorizes the commissioner to enter into a deferred prosecution agreement with a certified educator in lieu of finding probable cause.<sup>18</sup>

The bill takes effect July 1, 2015.

**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.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1003.576, 1005.22, and 1012.796.

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<sup>18</sup> Section 1012.796(3), F.S.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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