

A bill to be entitled

An act relating to public K-12 education; amending s. 1003.57, F.S.; providing guidelines for determining the residency of a student who receives instruction as an exceptional student; requiring the parent or the placing authority in a student's state of residence to pay the cost of such instruction, facilities, and services; providing responsibilities of the Department of Education; providing responsibilities of residential facilities that educate exceptional students; providing applicability; creating s. 1003.575, F.S.; requiring the Department of Education to develop an individual education plan form for use in developing and implementing individual education plans for exceptional students; requiring use of the form by school districts; amending s. 1003.58, F.S.; correcting a cross reference; providing an effective date.

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

Section 1. Section 1003.57, Florida Statutes, is amended to read:

1003.57 Exceptional students instruction.--

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

(a)~~(1)~~ The district school board provide the necessary

28 professional services for diagnosis and evaluation of
29 exceptional students.

30 (b)~~(2)~~ The district school board provide the special
31 instruction, classes, and services, either within the district
32 school system, in cooperation with other district school
33 systems, or through contractual arrangements with approved
34 private schools or community facilities that meet standards
35 established by the commissioner.

36 (c)~~(3)~~ The district school board annually provide
37 information describing the Florida School for the Deaf and the
38 Blind and all other programs and methods of instruction
39 available to the parent of a sensory-impaired student.

40 (d)~~(4)~~ The district school board, once every 3 years,
41 submit to the department its proposed procedures for the
42 provision of special instruction and services for exceptional
43 students.

44 (e)~~(5)~~ No student be given special instruction or services
45 as an exceptional student until after he or she has been
46 properly evaluated, classified, and placed in the manner
47 prescribed by rules of the State Board of Education. The parent
48 of an exceptional student evaluated and placed or denied
49 placement in a program of special education shall be notified of
50 each such evaluation and placement or denial. Such notice shall
51 contain a statement informing the parent that he or she is
52 entitled to a due process hearing on the identification,
53 evaluation, and placement, or lack thereof. Such hearings shall
54 be exempt from the provisions of ss. 120.569, 120.57, and

55 286.011, except to the extent that the State Board of Education
56 adopts rules establishing other procedures and any records
57 created as a result of such hearings shall be confidential and
58 exempt from the provisions of s. 119.07(1). The hearing must be
59 conducted by an administrative law judge from the Division of
60 Administrative Hearings of the Department of Management
61 Services. The decision of the administrative law judge shall be
62 final, except that any party aggrieved by the finding and
63 decision rendered by the administrative law judge shall have the
64 right to bring a civil action in the circuit court. In such an
65 action, the court shall receive the records of the
66 administrative hearing and shall hear additional evidence at the
67 request of either party. In the alternative, any party aggrieved
68 by the finding and decision rendered by the administrative law
69 judge shall have the right to request an impartial review of the
70 administrative law judge's order by the district court of appeal
71 as provided by s. 120.68. Notwithstanding any law to the
72 contrary, during the pendency of any proceeding conducted
73 pursuant to this section, unless the district school board and
74 the parents otherwise agree, the student shall remain in his or
75 her then-current educational assignment or, if applying for
76 initial admission to a public school, shall be assigned, with
77 the consent of the parents, in the public school program until
78 all such proceedings have been completed.

79 (f)~~(6)~~ In providing for the education of exceptional
80 students, the district school superintendent, principals, and
81 teachers ~~shall~~ utilize the regular school facilities and adapt

82 | them to the needs of exceptional students to the maximum extent
 83 | appropriate. Segregation of exceptional students shall occur
 84 | only if the nature or severity of the exceptionality is such
 85 | that education in regular classes with the use of supplementary
 86 | aids and services cannot be achieved satisfactorily.

87 | (g)(7) In addition to the services agreed to in a
 88 | student's individual education plan, the district school
 89 | superintendent ~~shall~~ fully inform the parent of a student having
 90 | a physical or developmental disability of all available services
 91 | that are appropriate for the student's disability. The
 92 | superintendent shall provide the student's parent with a summary
 93 | of the student's rights.

94 | (2)(a) A student who receives special instruction,
 95 | facilities, or services as an exceptional student is considered
 96 | a resident of the state in which the student's parent is a
 97 | resident. The cost of such instruction, facilities, and services
 98 | for a nonresident student shall be provided by the parent or the
 99 | placing authority in the student's state of residence, such as a
 100 | public school entity or other placing authority. Nonresident
 101 | students may not be reported by any school district for FTE
 102 | funding in the Florida Education Finance Program.

103 | (b) The Department of Education shall provide to each
 104 | school district a statement of the specific limitations of the
 105 | school district's financial obligation for exceptional students
 106 | under federal and state law. The department shall also provide
 107 | to each school district technical assistance as necessary for
 108 | developing a local plan to impose on the parent or the placing

109 authority in the student's state of residence the fiscal
 110 responsibility for educating a nonresident exceptional student.

111 (c) The Department of Education shall develop a process by
 112 which a school district must review the residency of each
 113 exceptional student who lives in a residential facility in this
 114 state prior to providing services. The residential facility, not
 115 the school district, is responsible for billing and collecting
 116 from a nonresident student's parent or placing authority payment
 117 for the student's educational and related services.

118 (d) This subsection applies to any nonresident student who
 119 receives instruction as an exceptional student in any type of
 120 educational facility in this state, including, but not limited
 121 to, a public school, a private school, a group home facility as
 122 defined in s. 393.063, an intensive residential treatment
 123 program for children and adolescents as defined in s. 395.002, a
 124 facility as defined in s. 394.455, an intermediate care facility
 125 for the developmentally disabled or ICF/DD as defined in s.
 126 393.063 or s. 400.960, or a community residential home as
 127 defined in s. 419.001.

128 Section 2. Section 1003.575, Florida Statutes, is created
 129 to read:

130 1003.575 Individual education plans for exceptional
 131 students.--The Department of Education shall develop an
 132 individual education plan (IEP) form for use in developing and
 133 implementing individual education plans for exceptional
 134 students. The IEP form shall have a streamlined format and, to
 135 provide for the use of an existing IEP form when a student

136 transfers from one school district to another, the IEP form
 137 developed by the department shall be used in each school
 138 district in the state.

139 Section 3. Subsection (3) of section 1003.58, Florida
 140 Statutes, is amended to read:

141 1003.58 Students in residential care facilities.--Each
 142 district school board shall provide educational programs
 143 according to rules of the State Board of Education to students
 144 who reside in residential care facilities operated by the
 145 Department of Children and Family Services.

146 (3) The district school board shall have full and complete
 147 authority in the matter of the assignment and placement of such
 148 students in educational programs. The parent of an exceptional
 149 student shall have the same due process rights as are provided
 150 under s. 1003.57(1)(e)~~(5)~~.

151
 152 Notwithstanding the provisions herein, the educational program
 153 at the Marianna Sunland Center in Jackson County shall be
 154 operated by the Department of Education, either directly or
 155 through grants or contractual agreements with other public or
 156 duly accredited educational agencies approved by the Department
 157 of Education.

158 Section 4. This act shall take effect July 1, 2005.