

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. 1003.57, F.S.; requiring a
8 school district to use specified terms to describe the
9 instructional setting for certain exceptional
10 students; defining the term "inclusion" for purposes
11 of exceptional student instruction; providing for
12 determination of eligibility as an exceptional
13 student; requiring certain assessments to facilitate
14 inclusive educational practices for exceptional
15 students; creating s. 1003.5715, F.S.; requiring the
16 use of parental consent forms for specified actions in
17 a student's individual education plan; providing
18 requirements for the consent forms; providing
19 requirements for changes in a student's individual
20 education plan; requiring the State Board of Education
21 to adopt rules; creating s. 1003.572, F.S.; defining
22 the term "private instructional personnel";
23 encouraging the collaboration of public and private
24 instructional personnel and providing requirements
25 therefor; amending s. 1003.58, F.S.; conforming a
26 cross-reference; amending s. 1012.585, F.S.; providing
27 requirements for renewal of a professional certificate
28 relating to teaching students with disabilities;

29 | authorizing the State Board of Education to adopt
30 | rules; providing an effective date.

31 |

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

33 |

34 | Section 1. Paragraph (a) of subsection (21) of section
35 | 1002.20, Florida Statutes, is amended to read:

36 | 1002.20 K-12 student and parent rights.—Parents of public
37 | school students must receive accurate and timely information
38 | regarding their child's academic progress and must be informed
39 | of ways they can help their child to succeed in school. K-12
40 | students and their parents are afforded numerous statutory
41 | rights including, but not limited to, the following:

42 | (21) PARENTAL INPUT AND MEETINGS.—

43 | (a) Meetings with school district personnel.—Parents of
44 | public school students may be accompanied by another adult of
45 | their choice at any meeting with school district personnel.
46 | School district personnel may not object to the attendance of
47 | such adult or discourage or attempt to discourage, through any
48 | action, statement, or other means, parents from inviting another
49 | person of their choice to attend any meeting. Such prohibited
50 | actions include, but are not limited to, attempted or actual
51 | coercion or harassment of parents or students or retaliation or
52 | threats of consequences to parents or students.

53 | 1. Such meetings include, but are not limited to,
54 | meetings related to: the eligibility for exceptional student
55 | education or related services; the development of an individual
56 | family support plan (IFSP); the development of an individual

57 education plan (IEP); the development of a 504 accommodation
58 plan issued under s. 504 of the Rehabilitation Act of 1973; the
59 transition of a student from early intervention services to
60 other services; the development of postsecondary goals for a
61 student and the transition services needed to reach those goals;
62 and other issues that may affect a student's educational
63 environment, discipline, or placement.

64 2. The school district shall notify the parents of
65 exceptional students in writing of the right to have an adult of
66 the parents' choice present at any such meeting.

67 Section 2. Subsection (1) of section 1003.57, Florida
68 Statutes, is amended to read:

69 1003.57 Exceptional students instruction.-

70 (1) (a) For purposes of providing exceptional student
71 instruction under this section:

72 1. A school district shall use the following terms to
73 describe the instructional setting for a student with a
74 disability, 6 through 21 years of age, who is not educated in a
75 setting accessible to all children who are together at all
76 times:

77 a. "Exceptional student education center" or "special day
78 school" means a separate public school to which nondisabled
79 peers do not have access.

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

82 c. "Regular class" means a class in which a student spends
83 80 percent or more of the school week with nondisabled peers.

84 d. "Resource room" means a classroom in which a student

85 spends between 40 percent to 80 percent of the school week with
86 nondisabled peers.

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

90 2. A school district shall use the term "inclusion" to
91 mean that a student is receiving education in a general
92 education regular class setting, reflecting natural proportions
93 and age-appropriate heterogeneous groups in core academic and
94 elective or special areas within the school community; a student
95 with a disability is a valued member of the classroom and school
96 community; the teachers and administrators support universal
97 education and have knowledge and supports available to enable
98 them to effectively teach all children; and a student is
99 provided access to technical assistance in best practices,
100 instructional methods, and supports tailored to the student's
101 needs based on current research.

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

106 1. The district school board provide the necessary
107 professional services for diagnosis and evaluation of
108 exceptional students.

109 2. The district school board provide the special
110 instruction, classes, and services, either within the district
111 school system, in cooperation with other district school
112 systems, or through contractual arrangements with approved

113 private schools or community facilities that meet standards
114 established by the commissioner.

115 3. The district school board annually provide information
116 describing the Florida School for the Deaf and the Blind and all
117 other programs and methods of instruction available to the
118 parent of a sensory-impaired student.

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

122 ~~(c)(b)~~ A student may not be given special instruction or
123 services as an exceptional student until after he or she has
124 been properly evaluated and found eligible as an exceptional
125 student, ~~classified, and placed~~ in the manner prescribed by
126 rules of the State Board of Education. The parent of an
127 exceptional student evaluated and found eligible or ineligible
128 ~~placed or denied placement in a program of special education~~
129 shall be notified of each such evaluation and determination
130 ~~placement or denial~~. Such notice shall contain a statement
131 informing the parent that he or she is entitled to a due process
132 hearing on the identification, evaluation, and eligibility
133 determination ~~placement~~, or lack thereof. Such hearings are
134 exempt from ss. 120.569, 120.57, and 286.011, except to the
135 extent that the State Board of Education adopts rules
136 establishing other procedures. Any records created as a result
137 of such hearings are confidential and exempt from s. 119.07(1).
138 The hearing must be conducted by an administrative law judge
139 from the Division of Administrative Hearings pursuant to a
140 contract between the Department of Education and the Division of

141 Administrative Hearings. The decision of the administrative law
142 judge is final, except that any party aggrieved by the finding
143 and decision rendered by the administrative law judge has the
144 right to bring a civil action in the state circuit court. In
145 such an action, the court shall receive the records of the
146 administrative hearing and shall hear additional evidence at the
147 request of either party. In the alternative, in hearings
148 conducted on behalf of a student who is identified as gifted,
149 any party aggrieved by the finding and decision rendered by the
150 administrative law judge has the right to request a review of
151 the administrative law judge's order by the district court of
152 appeal as provided in s. 120.68.

153 (d)~~(e)~~ Notwithstanding any law to the contrary, during the
154 pendency of any proceeding conducted pursuant to this section,
155 unless the district school board and the parents otherwise
156 agree, the student shall remain in his or her then-current
157 educational assignment or, if applying for initial admission to
158 a public school, shall be assigned, with the consent of the
159 parents, in the public school program until all such proceedings
160 have been completed.

161 (e)~~(d)~~ In providing for the education of exceptional
162 students, the district school superintendent, principals, and
163 teachers shall utilize the regular school facilities and adapt
164 them to the needs of exceptional students to the maximum extent
165 appropriate. To the extent appropriate, students with
166 disabilities, including those students in public or private
167 institutions or other facilities, shall be educated with
168 students who are not disabled. Segregation of exceptional

169 students shall occur only if the nature or severity of the
170 exceptionality is such that education in regular classes with
171 the use of supplementary aids and services cannot be achieved
172 satisfactorily.

173 (f) Once every 3 years, each school district and school
174 shall complete a Best Practices in Inclusive Education (BPIE)
175 assessment with a Florida Inclusion Network facilitator and
176 include the results of the BPIE assessment and all planned
177 short-term and long-term improvement efforts in the school
178 district's exceptional student education policies and
179 procedures. BPIE is an internal assessment process designed to
180 facilitate the analysis, implementation, and improvement of
181 inclusive educational practices at the district and school team
182 levels.

183 (g)~~(e)~~ In addition to the services agreed to in a
184 student's individual educational plan, the district school
185 superintendent shall fully inform the parent of a student having
186 a physical or developmental disability of all available services
187 that are appropriate for the student's disability. The
188 superintendent shall provide the student's parent with a summary
189 of the student's rights.

190 (h)~~(f)~~ School personnel may consider any unique
191 circumstances on a case-by-case basis when determining whether a
192 change in placement is appropriate for a student who has a
193 disability and violates a district school board's code of
194 student conduct. School personnel may remove and place such
195 student in an interim alternative educational setting for not
196 more than 45 school days, without regard to whether the behavior

197 is determined to be a manifestation of the student's disability,
 198 if the student:

199 1. Carries a weapon to or possesses a weapon at school, on
 200 school premises, or at a school function under the jurisdiction
 201 of the school district;

202 2. Knowingly possesses or uses illegal drugs, or sells or
 203 solicits the sale of a controlled substance, while at school, on
 204 school premises, or at a school function under the jurisdiction
 205 of the school district; or

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

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

210 1. "Controlled substance" means a drug or other substance
 211 identified under Schedule I, Schedule II, Schedule III, Schedule
 212 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
 213 812(c) and s. 893.02(4).

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

219 Section 3. Section 1003.5715, Florida Statutes, is created
 220 to read:

221 1003.5715 Parental consent; individual education plan.—

222 (1) The Department of Education shall adopt separate
 223 parental consent forms that school districts must use for each
 224 of the following actions in a student's individual education

225 plan (IEP):

226 (a) Administer to the student an alternate assessment
227 pursuant to s. 1008.22 and provide instruction in the state
228 standards access points curriculum.

229 (b) Place the student in an exceptional student education
230 center.

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

234 (a) A statement that the parent is a participant of the
235 individual education plan team (IEP Team) and has the right to
236 consent or refuse consent to the actions described in subsection
237 (1). The statement shall include information that the refusal of
238 parental consent means that the school district may not proceed
239 with the actions described in subsection (1) without a school
240 district due process hearing in accordance with 34 C.F.R. ss.
241 300.507 and 300.508.

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

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

244 (d) An informational statement of the benefits and
245 consequences of giving parental consent to the actions described
246 in subsection (1).

247 (3) A school district may not proceed with the actions
248 described in subsection (1) without parental consent unless the
249 school district documents reasonable efforts to obtain the
250 parent's consent and the child's parent has failed to respond or
251 the school district obtains approval through a due process
252 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and

253 resolution of appeals.

254 (4) Except for a change in placement described in s.
255 1003.57(1)(h), if a school district determines that there is a
256 need to change an exceptional student's IEP as it relates to
257 actions described in subsection (1), the school must hold an IEP
258 Team meeting that includes the parent to discuss the reason for
259 the change. The school shall provide written notice of the
260 meeting to the parent indicating the purpose, time, and location
261 of the meeting and who, by title or position, will attend the
262 meeting. The IEP Team meeting requirement may be waived by
263 informed consent of the parent after the parent receives the
264 written notice.

265 (5) For a change in actions described in subsection (1) in
266 a student's IEP, the school district may not implement the
267 change without parental consent unless the school district
268 documents reasonable efforts to obtain the parent's consent and
269 the child's parent has failed to respond or the school district
270 obtains approval through a due process hearing in accordance
271 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
272 appeals.

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

279 (7) This section does not abrogate any parental right
280 identified in the Individuals with Disabilities Education Act

281 (IDEA) and its implementing regulations.

282 (8) The State Board of Education shall adopt rules
283 pursuant to ss. 120.536(1) and 120.54 to implement this section,
284 including, but not limited to, developing parental consent
285 forms.

286 Section 4. Section 1003.572, Florida Statutes, is created
287 to read:

288 1003.572 Collaboration of public and private instructional
289 personnel.—

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

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

295 (b) Speech-language pathologists licensed under s.
296 468.1185.

297 (c) Occupational therapists licensed under part III of
298 chapter 468.

299 (d) Physical therapists licensed under chapter 486.

300 (e) Psychologists licensed under chapter 490.

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

302 (2) The collaboration of public and private instructional
303 personnel shall be designed to enhance but not supplant the
304 school district's responsibilities under the Individuals with
305 Disabilities Education Act (IDEA). The school as the local
306 education agency shall provide therapy services to meet the
307 expectations provided in federal law and regulations and state
308 statutes and rules. Collaboration of public and private

309 instructional personnel will work to promote educational
310 progress and assist students in acquiring essential skills,
311 including, but not limited to, readiness for pursuit of higher
312 education goals or employment. Where applicable, public and
313 private instructional personnel shall undertake collaborative
314 programming. Coordination of services and plans between a public
315 school and private instructional personnel is encouraged to
316 avoid duplication or conflicting services or plans.

317 (3) Private instructional personnel who are hired or
318 contracted by parents to collaborate with public instructional
319 personnel must be permitted to observe the student in the
320 educational setting, collaborate with instructional personnel in
321 the educational setting, and provide services in the educational
322 setting according to the following requirements:

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

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

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

330 Section 5. Subsection (3) of section 1003.58, Florida
331 Statutes, is amended to read:

332 1003.58 Students in residential care facilities.—Each
333 district school board shall provide educational programs
334 according to rules of the State Board of Education to students
335 who reside in residential care facilities operated by the
336 Department of Children and Family Services or the Agency for

337 Persons with Disabilities.

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

343
344 Notwithstanding the provisions herein, the educational program
345 at the Marianna Sunland Center in Jackson County shall be
346 operated by the Department of Education, either directly or
347 through grants or contractual agreements with other public or
348 duly accredited educational agencies approved by the Department
349 of Education.

350 Section 6. Paragraph (e) is added to subsection (3) of
351 section 1012.585, Florida Statutes, and subsection (6) is added
352 to that section, to read:

353 1012.585 Process for renewal of professional
354 certificates.—

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

357 (e) Beginning July 1, 2014, an applicant for renewal of a
358 professional certificate must earn a minimum of 1 college credit
359 or the equivalent inservice points in the area of instruction
360 for teaching students with disabilities. Educators who are
361 certified in exceptional student education, who have passed the
362 subject area test in exceptional student education, or who have
363 successfully completed an exceptional student education course
364 in a teacher preparation program are exempt from this

CS/CS/CS/HB 465

2013

365 | requirement. The requirement in this paragraph may not add to
366 | the total hours required by the department for continuing
367 | education or inservice training.

368 | (6) The State Board of Education may adopt rules under ss.
369 | 120.536(1) and 120.54 to implement this section, including, but
370 | not limited to, applicant renewal requirements.

371 | Section 7. This act shall take effect July 1, 2013.