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MEMORANDUM

TO: School District Superintendents

FROM: Pam Stewart

DATE: August 28, 2013

SUBJECT: 2013 LEGISLATION – SENATE BILL 1108

Contact Information

Cathy Bishop
850-245-0478
Cathy.Bishop@fldoe.org
DPS: 2013-105

The 2013 Florida Legislature passed Committee Substitute for Senate Bill 1108 (CS/SB 1108) – An act relating to exceptional student education. Governor Scott signed this bill on June 28, 2013, with an effective date of July 1, 2013. The legislation impacts multiple statutes related to exceptional student education (ESE). The enrolled bill may be found at <http://www.flsenate.gov/Session/Bill/2013/1108/BillText/er/pdf>.

A summary of key provisions follows. Please note, questions and answers addressing specific implementation issues are included in **Appendix A**.

The following statutes are amended:

Section 1002.20, Florida Statutes (F.S.), K–12 student and parent rights

- School district personnel may not object to, discourage or attempt to discourage the attendance of an adult of a parent's choice at any meeting with school district personnel. Actions that are prohibited include attempted or actual coercion or harassment of parents or students, or retaliation or threats of consequences to parents or students.
- At the conclusion of a meeting, parents and school district personnel in attendance must sign a form stating whether any school district personnel have prohibited, discouraged or attempted to discourage the parents from inviting a person of their choice to the meeting. A sample form has been developed to assist school districts (**Appendix B**). Districts are not required to use this form.
- Meetings that are identified in the law include, but are not limited to, eligibility determination meetings for ESE; individual educational plan (IEP) or individualized family support plan (IFSP) development meetings; meetings to develop a 504 accommodations plan under the provisions of Section 504 of the Rehabilitation Act of 1973; transition meetings for children leaving early intervention services for school district-operated programs; secondary transition planning meetings; and any other meetings related to discipline issues or matters related to educational placement.

Section 1002.33, F.S., Charter schools

- Unless otherwise mutually agreed to by a charter school and sponsor, the sponsor shall reimburse a charter school on a monthly basis for all invoices submitted by the charter school for federal funds available to the sponsor for the benefit of the charter school, the charter school's students, and the charter school's students as public school students in the district. This includes, but is not limited to, Title I, Title II and the Individuals with Disabilities Education Act (IDEA).
- To receive a reimbursement, a charter school must submit the invoice at least 30 days before the monthly date of reimbursement set by the sponsor.
- Such funds may not be made available to a charter school until a plan is submitted to the sponsor for approval of the use of funds in accordance with the applicable requirements.
- The sponsor has 30 days to review and approve any plans submitted.

Section 1003.57, F.S., Exceptional students instruction

- An ESE center, or special day school, is defined to mean a separate public school to which nondisabled peers do not have access. Definitions are also included for regular, resource and separate class placements, and inclusion.
- The law requires that once every three years, each school district and school must complete a Best Practices in Inclusive Education (BPIE) assessment. The BPIE is an internal assessment process designed to facilitate the analysis, implementation and improvement of inclusive educational practices. The Florida Inclusion Network is required to assist districts in this process. The results of this process, including all planned short- and long-term improvement efforts, must be included in the school district's ESE policies and procedures.
- At each student's initial IEP meeting, the school district must provide the parent with information regarding the amount of funds that the school district receives from the state appropriation for each of the five ESE support levels for a full-time student.

Section 1012.585, F.S., Process for renewal of professional certificates

- This section requires, beginning July 1, 2014, that an applicant for renewal of a professional certificate must earn at least one college credit or equivalent inservice points in teaching students with disabilities.
- An applicant must earn a minimum of six semester hours of college credits or the equivalent inservice points for certificate renewal, and this new requirement for credit in teaching students with disabilities may not increase the total renewal credit required.
- This section permits the State Board of Education to adopt rules for implementation of this section.

The following statutes are created:

Section 1003.5715, F.S., Parental consent

- The Florida Department of Education is required to adopt parental consent forms that school districts must use for the following actions included in a student's IEP:
 - Administration of the alternate assessment in accordance with s. 1008.22, F.S., and the provision of instruction in the state standards access points curriculum
 - Placement of a student in an ESE center
- Appended to this memo (**Appendix C and Appendix D**) are the forms that the department has developed to meet this requirement. Districts are required to use these forms on an interim basis until such time as a rule is adopted.

- School districts may not proceed with the actions described above without parental consent unless the school district documents reasonable efforts to obtain the parent's consent and the parent has failed to respond or the school district obtains approval through a due process hearing.
- Except for a change of placement resulting from disciplinary action as described in s. 1003.57(1)(h), F.S., if a school district determines that there may be a need to change a student's IEP with regard to the actions described above, an IEP team meeting must be held.
- The school must provide the parent with written notice of this meeting at least 10 days in advance. The parent may waive the 10-day requirement upon receipt of the written notice.
- The State Board of Education is required to adopt rules with regard to implementing this section of law.

Section 1003.572, F.S., Collaboration of public and private instructional personnel

- Private instruction personnel are defined to include
 - Individuals certified under s. 393.17, F.S., Behavioral programs; certification of behavioral analysts, or licensed under Chapter 490 or 491, F.S., for applied behavior analysis services as defined in s. 617.6686 and 641.31098, F.S.
 - Speech-language pathologists licensed under s. 468.1185, F.S.
 - Occupational therapists licensed under Part III of Chapter 468, F.S.
 - Physical therapists licensed under Chapter 486, F.S.
 - Psychologists licensed under Chapter 490, F.S.
 - Clinical social workers licensed under Chapter 491, F.S.
- Collaboration of public and private instructional personnel is designed to enhance but not supplant the school district's responsibilities under IDEA. Where applicable, public and private instructional personnel shall undertake collaborative programming. Coordination of services and plans is encouraged to avoid duplication of or conflicting services.
- Private instructional personnel who are hired or contracted by parents to collaborate with public instructional personnel must be permitted to observe, collaborate with personnel, and provide services to the student in the educational setting if the following requirements are met:
 - The student's public instructional personnel and principal must consent to the time and place.
 - The private instructional personnel must satisfy the requirements of s. 1012.32, F.S., or s. 1012.321, F.S.
- The provision of private instructional personnel by a parent does not constitute a waiver of the right to a free appropriate public education under IDEA.

Section 1008.212, F.S., Student with disabilities, extraordinary exemption

- An IEP team may determine that specific circumstances or conditions prevent a student with a disability from physically demonstrating the mastery of skills that have been acquired and are measured by a statewide standardized assessment, to include an end-of-course assessment or an alternate assessment in accordance with s. 1008.22, F.S., and that an extraordinary exemption be granted from administration of the assessment.
- A learning, emotional, behavioral or significant cognitive disability or the receipt of services through the homebound or hospitalized program in accordance with Rule 6A-6.03020, Florida Administrative Code (F.A.C.), is not, in and of itself, adequate criteria for granting an extraordinary exemption.

- A “circumstance” is defined to mean a situation in which accommodations allowable for use on the statewide standardized assessment, a statewide standardized end-of-course assessment or an alternate assessment pursuant to s. 1008.22(3)(c), F.S., are not offered to a student during the current year’s assessment administration due to technological limitations in the testing administration program that lead to results reflecting the student’s impaired sensory, manual or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment or an alternate assessment.
- A “condition” is defined to mean an impairment, whether recently acquired or longstanding, that affects a student’s ability to communicate in modes deemed acceptable for statewide assessments, even if appropriate accommodations are provided, and creates a situation in which the results of administration of the statewide standardized assessment, an end-of-course assessment or an alternate assessment would reflect the student’s impaired sensory, manual or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment or an alternate assessment.
- An IEP team, which must include the parent, may submit to the district superintendent a written request for an extraordinary exemption at any time during the school year, but no later than 60 days before the current year’s assessment administration. The request must include the following information:
 - A written description of the student’s disabilities, including a specific description of the student’s impaired sensory, manual or speaking skills.
 - Written documentation of the most recent evaluation data.
 - Written documentation, if available, of the most recent administration of the statewide standardized assessment, an end-of-course assessment or an alternate assessment.
 - A written description of the condition’s effect on the student’s participation in the statewide standardized assessment, an end-of-course assessment or an alternate assessment.
 - Written evidence that the student has had the opportunity to learn the skills being tested.
 - Written evidence that the student has been provided appropriate instructional accommodations.
 - Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student’s IEP that are allowable in the administration of the statewide standardized assessment, an end-of-course assessment or an alternate assessment in prior assessments.
 - Written evidence of the circumstance or condition as defined above.
- Based upon the documentation provided by the IEP team, the school district superintendent must recommend to the commissioner of education whether an extraordinary exemption for a given assessment administration window should be granted or denied.
- A copy of the procedural safeguards as required in Rule 6A-6.03311, F.A.C., must be provided to the parent.
- If the parent disagrees with the IEP team’s recommendation, dispute resolution measures, including mediation and requesting a due process hearing, must be made available to the parent.
- If the commissioner grants the exemption, the student’s progress must be assessed in accordance with the goals established in the student’s IEP.
- If the commissioner denies a district superintendent’s request for the granting of an extraordinary exemption, the parent may request an expedited due process hearing. In this event, the department is required to inform the parent of any free or low-cost legal services and other relevant services available in the area.

Section 1008.3415, F.S. – School grade or school improvement rating for exceptional student education centers

ESE centers may choose whether they will receive a school grade under s. 1008.34, F.S., or a school improvement rating under s. 1008.341, F.S.

- If the school chooses to receive a school improvement rating, the achievement scores and learning gains of the students served in the ESE center school will be counted in the school grade of the student's home school. However, if the student has not been enrolled in a school other than an ESE center, and they score at the emergent level of the Florida Alternate Assessment, the student's achievement scores and learning gains will not be included in the home school's grade.
- The State Board of Education will adopt a rule defining ESE centers.

In the near future, the department will be initiating rule development activities as required. If you have questions regarding implementation of this legislation, please contact the following staff members:

For questions regarding provisions related to ESE, contact Monica Verra-Tirado at Monica.Verra-tirado@fldoe.org, or Cathy Bishop at Cathy.Bishop@fldoe.org.

For questions regarding provisions related to charter schools, contact Adam Miller at Adam.miller@fldoe.org.

For questions regarding provisions related to grading or improvement ratings for ESE center schools, contact Jane Fletcher at Jane.fletcher@fldoe.org.

For questions regarding provisions related to the renewal of certificates, contact David Lajeunesse at David.lajeunesse@fldoe.org, or Veronica White at Veronica.white@fldoe.org.

PS/cbd

cc: Exceptional Student Education Directors
Student Services Directors
District Staff Development Coordinators
District Assessment Coordinators
District Charter Schools Liaisons
District Accountability Coordinators
District Finance Officers
Mary Jane Tappen
Lois Tepper
Monica Verra-Tirado
Mark Eggers
Adam Miller
Will Krebs
Jane Fletcher
David LaJeunesse
Veronica White
Victoria Ash
Cathy Bishop