

Appendix A



Questions and Answers Regarding Implementation of CS/SB 1108

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

- 1. Does the requirement to have parents and staff sign a form regarding whether the parent was discouraged from bringing an adult of his or her choice to a meeting apply only to students with disabilities and students who are gifted?**

Section 1002.20, F.S., applies to all students. The provision that parents may be accompanied by another adult of their choice to any meeting with school district personnel is a long-standing requirement in law that is applicable to all students. The recently amended language adds the stipulation that districts may not “object to the attendance of such adult, discourage, or attempt to discourage . . . parents from inviting another person of their choice to attend any meetings.” Although most of the examples in the law are meetings specifically related to students with disabilities or students who are gifted, not all are. For example, a meeting related to “other issues that may affect a student’s educational environment, discipline, or placement” is very broad and could apply to any student.

- 2. Does the reference to “the transition of a student from early intervention services to other services” mean that the required form would have to be presented at a Part C to Part B transition-planning meeting organized by local Early Steps (LES)?**

Yes. Although the Department of Health, LES has the obligation to convene the meeting described; at the conclusion of such a meeting, the form required by this section of law must be presented for signature by the parent and the school district personnel in attendance.

- 3. If the adult of choice that the parent wishes to invite is a representative of the media, does the school district have to consent to the attendance of a media representative because of the provisions of this law?**

Yes. The law would permit the parent to select a representative of the media as the adult of their choice.

- 4. Does the parent have to notify the district of the adult of their choice that they plan to invite?**

No. However, in the IEP invitation notice, the district may ask that the parent inform school personnel regarding individuals that he or she will be inviting to the IEP team meeting.

- 5. If the parent participates in a meeting via telephone, how should the form be presented to the parent?**

The district should mail or send the form electronically and request that the parent sign and return.

- 6. Could the district include a signature line acknowledging that the parent has not been discouraged from inviting an individual of choice as a component of an IEP, individualized family support plan (IFSP) or 504 plan document?**

Yes. However, since the potential types of meetings when such a document must be signed go beyond an IEP, IFSP or 504 plan meeting, it is advisable that districts develop a form specifically to meet the requirements of the law. A sample form is provided by the Bureau of Exceptional Education and Student Services (**Appendix B**) and may be used at the discretion of the district. For those districts using the Portal to Exceptional Education Resources (PEER) this form will be included in that system.

Refer to DPS: 2013-105
dated August 23, 2013

7. If the parent does not attend the meeting, do school district personnel need to sign the form indicating that they did not prohibit or discourage the parent from bringing an individual of choice?

No. It should be noted, however, that the parent was not in attendance at the meeting.

Section 1002.33, F.S., Charter schools

1. May a charter school choose to receive services provided by the district in lieu of federal funds?

Yes. A charter school may elect to receive services instead of funds, unless the federal regulations specifically require the distribution of funds, such as Title I.

2. May a district choose to provide services instead of funds if the charter school elects to receive funds?

No. If a charter school elects to receive funds instead of a commensurate share of services, the district must provide the funds for the same level of service provided students in the schools operated by the district.

3. Who is responsible for monitoring the use of the federal funds that are provided to the charter schools?

The district, in its role of sponsor, is responsible for monitoring the revenues and expenditures of charter schools.

Section 1003.57, F.S., Exceptional students instruction

1. Since the word “placement” is struck from s. 1003.57 (1)(c), F.S., can it be deleted from a district’s notice describing when a due process hearing is available to a student with disabilities eligible under the provisions of the Individuals with Disabilities Education Act (IDEA)?

No. 34 CFR s. 300.507 states clearly that a parent may file a due process complaint on matters related to identification, evaluation or the **educational placement** of a child with a disability or the provision of a free appropriate public education (FAPE) to the child.

2. What funding information does the law require to be provided to the parent at the initial meeting of the IEP team?

The law requires that the district provide the parent with information regarding the amount the school district receives from the state appropriation for each of the five ESE support levels.

3. Does this section of law mean that a matrix of services document will need to be completed for every student with an IEP?

No. There were no changes made to s. 1011.62, F.S., Funds for operation of schools, with regard to matrix-related requirements. Section 1001.62(1)(e), F.S., states that “in order to generate funds using one

of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every three years by personnel who have received approved training."

4. What information regarding the five ESE support levels should be conveyed to parents?

District staff should work with their finance office to calculate funding amounts for programs kindergarten and grades 1, 2 and 3 with ESE Services (111), Grades 4, 5, 6, 7 and 8 with ESE Services (112), Grades 9, 10, 11 and 12 with ESE Services (113), Support Level 4 (254), and Support Level 5 (255). One possible method of meeting this requirement would be to provide the parents with (1) the base funding amount for a full-time student in each of the five cost factor programs and (2) the amount of the ESE guaranteed allocation for the district as authorized by the legislature.

If parents are provided the total ESE guaranteed allocation amount for the district, they should also be provided with an explanation that these funds are to be used for students whose level of service is less than Support Levels 4 and 5.

Section 1003.5715, F.S., Parental consent; individual education plan

1. If a student's IEP that was developed and implemented prior to July 1, 2013, reflects either instruction in access points, Florida Alternate Assessment or ESE center school placement, what is the district's obligation to obtain parent consent for those actions?

At the next IEP team meeting to review and revise the student's IEP, the consent form developed by the department as required by law must be presented to the parent for signature.

2. What would constitute "reasonable efforts" to obtain parental consent?

Districts should be guided by the description of reasonable efforts found in the section of the Part B Notice of Procedural Safeguards for Parents of Students with Disabilities (<http://www.fl DOE.org/ese/pdf/procedural.pdf>) that addresses obtaining initial consent for services. Specifically, districts must maintain documentation of at least two attempts to obtain the consent of the parent. Such documentation could include detailed records of telephone calls, copies of correspondence and records of visits made to the parent's home or place of employment.

3. How should a district determine what type of setting would be considered an ESE center school, thereby requiring parental consent before placement?

In the absence of a specific definition of ESE center in s. 1003.5715, F.S., the definition of ESE center or "special day school" that was incorporated into s. 1003.57, F.S., should be used. That definition states that an ESE center or special day school means a separate public school to which nondisabled peers do not have access.

4. If a student has violated the district's code of conduct related to weapons, possession or use of illegal drugs or infliction of serious bodily injury on another individual, is parental consent needed to remove the student to an interim alternative educational setting that may include an ESE center school?

No. Section 1003.5715, F.S., clearly states that parental consent is not required in such circumstances.

- 5. If the parent indicates “does not consent” on the consent form related to instruction in access points curriculum and administration of the Florida Alternate Assessment, does this mean that the student remains in the general standards curriculum and is assessed using the general statewide assessments?**

Yes.

- 6. Under what circumstances must an IEP team meeting notice be provided at least 10 days in advance of the meeting?**

Section 1003.5715, F.S., states that if a school district determines that there is a need to change a student’s IEP with regard to instruction in access points curriculum and administration of Florida Alternate Assessment or ESE center school placement, then the notice of the meeting must be provided at least 10 days in advance. If the district has not determined this to be the purpose of the IEP meeting, then the requirement to present the meeting notice at least 10 days in advance would not apply.

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

- 1. Is the school district obligated to pay the costs associated with the background screening of private instructional personnel?**

No. The law is silent with regard to assumption of costs. Since these are individuals hired by the parent, it is assumed that private instructional personnel would be responsible for the costs associated with any required background screening. It is anticipated that most professionals identified in the law would have already been screened given the licensing or certification requirements associated with their profession.

- 2. Should the services that are being provided by the private instructional personnel who are hired or contracted by the parents be included in the student’s IEP?**

It may be appropriate to include such information in the present level of educational performance in the section of the IEP where input from parents is documented or in the IEP team meeting conference notes.

The school district’s obligation continues to be the provision of FAPE to the student, regardless of the intensity or nature of any services that the parent may independently contract for. The IEP must reflect the services that the district will provide to ensure the provision of FAPE. However, other services that are privately paid for by the parent should not be included on the student’s IEP.

- 3. Should a district develop procedures regarding observation of the student or provision of services at the school site by private instructional personnel hired or contracted by the parent?**

Although the law does not require that districts have such procedures, it is advisable that districts have clear procedures in place so that both parents and private instructional personnel hired or contracted by the parent understand the expectations of the school. Districts are reminded that student-specific information cannot be shared with such private providers unless the parent has provided written permission for the release of such information. As a part of these procedures, districts may wish to consider the application of some of the processes and procedures used with regard to school volunteers – especially related to maintaining confidentiality.

The school principal and the student’s public instructional personnel must consent to the time and place for any requested observation, collaboration or provision of private services on a school site.

Section 1008.212, F.S., Students with disabilities; extraordinary exemption

- 1. If an IEP team were to recommend an extraordinary exemption from participation in a statewide assessment, what information would be included on the student's IEP?**

Since every IEP must address a student's participation in statewide assessment, the IEP would include the IEP team's recommendation for an extraordinary exemption. If the exemption was not granted, the IEP team would need to reconvene to determine how the student would participate in the statewide assessment.

- 2. If an extraordinary exemption is approved, the law requires that the student's progress must be assessed in accordance with the goals established in the student's IEP. Would this require a report that differs from the report that is developed to meet the requirements of 6A-6.03028(3)(h)7, Florida Administrative Code?**

No.

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

- 1. When will schools need to choose whether to receive a school improvement rating or a school grade?**

Each year, the department will contact ESE center schools in the spring to obtain their decision on whether they chose to receive a school grade or a school improvement rating for that year.

- 2. For ESE centers that elect to receive a school improvement rating, are assessment scores for students at the ESE center included in learning gains calculations for the ESE center as well as the performance and learning gains measures in the school grade at the student's home school?**

Yes. For these ESE centers, scores for students who have the required years of assessment scores for learning gains calculations are included in the school improvement rating for the ESE center as well as the school grade calculation of the home school.

- 3. For students who attend ESE center schools, which students' scores will be included in the home school's grade?**

The following students' scores will be included in the home school's grade.

- Students who have prior K–12 enrollment in a district school that is not an ESE center.
- Students who have only been enrolled in an ESE center school and scored at levels 4 to 9 on the Florida Alternate Assessment.

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

- 1. Will this renewal requirement apply to professional certificates expiring on June 30, 2014?**

This requirement depends on when the application is submitted for renewal of the professional certificate. The credit in teaching students with disabilities will not be required for educators who submit applications to renew their professional certificates prior to July 1, 2014. However, an applicant whose certificate

expires on June 30, 2014, who submits application for late renewal on or after July 1, 2014, will be expected to have satisfied the requirement for credit in teaching students with disabilities.

2. When and how will this renewal requirement apply to professional certificates expiring after June 30, 2014?

Details on the timeline for satisfying this renewal requirement for certificates expiring after June 30, 2014, have not yet been determined. They will be based upon the State Board of Education's revision of the renewal rule and the department's implementation guidance.

3. What type of inservice activities and courses will satisfy this requirement?

Acceptable inservice activities and courses have not yet been determined. They will be based upon the State Board of Education's revision of the renewal rule and the department's implementation guidance.

4. Does this renewal requirement apply to all professional certificates covering any subject?

Any exceptions will be addressed through the State Board of Education's rule revision process.

5. How many credits or inservice points in teaching students with disabilities are required?

The legislation requires one semester hour of college credit, which is equivalent to 20 inservice points.

6. How may the credit earned be applied toward fulfillment of renewal requirements?

Renewal credit earned in ESE may be applied toward fulfillment of renewal requirements of any subject specialization area issued on the professional certificate.

7. Is this a one-time renewal requirement or will this credit be required for every future professional certificate renewal cycle?

The new credit requirement applies to future professional certificate renewal cycles unless this provision of law is amended by the legislature.