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**DPS: 2021-124**

**MEMORANDUM**

**TO:** School District Superintendents

**FROM:** Jacob Oliva

**DATE:** September 17, 2021

**SUBJECT: Legislative Changes in Senate Bills (SB) 96 and 80**

The 2021 Florida Legislature passed and Governor DeSantis signed into law SB 96 and 80. The purpose of this memorandum is to inform school districts of the new responsibilities and considerations of each bill related to child welfare.

**SB 96** – Took effect July 1, 2021

Section (s.) 39.205(11), Florida Statutes (F.S.), Penalties relating to reporting of child abuse, abandonment, or neglect is created to read:

“This section may not be construed to remove or reduce the requirement of any person, including, but not limited to, any employee of a school readiness program provider determined to be eligible under s. 1002.88; a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51; a public K-12 school as described in s. 1000.04; a private school as defined in s. 1002.01; a Florida College System institution or a state university, as those terms are defined in s. 1000.21; a college as defined in s. 1005.02; or a school as defined in s. 1005.02, to directly report a known or suspected case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department’s central abuse hotline. A person required to report to the central abuse hotline is not relieved of such obligation by notifying his or her supervisor.”

This means all employees and agents of the district school board, charter school or private school have an affirmative duty to report all actual or suspected cases of child abuse, abandonment or neglect to the Central Abuse Hotline (1-800-962-2873), regardless whether they have previously notified a supervisor.

Section 39.4085, F.S., is amended to read:

“District school boards are authorized and encouraged to establish educational programs for students ages 5 through 18 relating to identifying and reporting abuse, abandonment, or neglect, and the effects of such abuse, abandonment, or neglect on a child. The district school boards may provide such programs in conjunction with the youth mental health awareness and assistance training program required under s. 1012.584, any other mental

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health education program offered by the school district, or any of the educational instruction required under s. 1003.42(2).”

Section 1012.795, F.S., is amended to read:

“If the Department of Education determines that any instructional personnel or school administrator, as defined in s. 1012.01(2) or (3), respectively, has knowingly failed to report known or suspected child abuse as required under s. 39.201, and the Education Practices Commission has issued a final order for a previous instance of failure to report by the individual, the Education Practices Commission shall, at a minimum, suspend the educator certificate of the instructional personnel or school administrator for a period of at least one year.”

For questions regarding the human resources components of this bill, please contact Randy Kosec, Chief, Professional Practices Services, at 850-245-0438 or [Randy.Kosec@fldoe.org](mailto:Randy.Kosec@fldoe.org).

**SB 80** – Takes effect on October 1, 2021

Section 39.4023, F.S., creates and amends a number of sections of law and provides guidance for the Department of Children and Families (DCF) to address educational transitions and placement.

#### Education Transitions

Children in out-of-home care frequently change child care, early education programs and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another or when the child returns home upon reunification.

A child’s educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

#### Mandatory Educational Transition plans

DCF or the community-based care lead agency shall create and implement an individualized transition plan each time a child experiences a school change.

#### Minimizing School Changes

Every effort must be made to keep a child in the school of origin if it is in the child’s best interest. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

Members of a multidisciplinary team convened for a purpose other than a school change must determine the child’s best interest regarding remaining in the school or program of origin if the child’s educational options are affected by any other decision being made by the multidisciplinary team. This must be made in consultation with the following individuals, including, but not limited to:

- the child;
- the parents;
- the caregiver;
- the child welfare professional;

- the guardian ad litem, if appointed;
- the educational surrogate, if appointed;
- child care and educational staff, including teachers and guidance counselors; and
- the school district representative or foster care liaison.

A multidisciplinary team member may contact any of these individuals noted above in advance of a multidisciplinary team meeting to obtain his or her recommendation in consideration for placement to get input regarding:

- The child's desire to remain in the school or program of origin.
- The preference of the child's parents or legal guardians.
- Whether the child has siblings or close friends.
- The child's cultural and community connections.
- Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multitiered system of supports.
- Whether the child has an evaluation pending for special education and related services under IDEA or Section 504 of the Rehabilitation Act of 1973.
- Whether the required services are available in a school or program other than the school or program of origin.
- Whether the child is an English Language Learner student and is receiving language services and, if so, whether those required services are available in a school or program other than the school or program of origin.
- The impact a change to the school or program of origin would have on academic credits and progress toward promotion.
- The availability of extracurricular activities important to the child.
- Medical and behavioral health needs and whether such plan or needs are able to be met at a school or program other than the school or program of origin.
- The child's permanency goal and timeframe for achieving permanency.
- The child's history of school transfers and how such transfers have impacted the child academically, emotionally and behaviorally.
- The length of the commute to the school or program from the child's home or placement and how such commute would impact the child.
- The length of time the child has attended the school or program of origin.
- The cost of transportation cannot be a factor in making a best interest determination.
- Transitions between child care and early education programs.

When a child enters out-of-home care or undergoes a placement change, the child shall, if possible, remain with a familiar child care provider or early education program unless there is an opportunity to transition to a higher quality program. If this is not possible, the plan must give the child an opportunity to say goodbye to important figures in the educational environment.

For questions regarding the student services components of these bills, please contact Beverley Wilks, school social work consultant for the Bureau of Student Support Services, at 850-245-7837 or [Beverley.Wilks@fldoe.org](mailto:Beverley.Wilks@fldoe.org).

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Thank you for your attention to these important changes. These revisions will continue to ensure the health, safety and welfare for all of Florida's students.

JO/rk/bw

cc: School District Student Services Directors  
School District Human Resources Officers