

STATE BOARD OF EDUCATION
Consent Item
September 29, 2014

SUBJECT: Approval of Repeal of Rules 6M-8.200, 6M-8.2015 and 6M-8.202, related to the Voluntary Prekindergarten Education Program

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1001.213(2), Florida Statutes

EXECUTIVE SUMMARY

The following rules are to be repealed:

The Office of Early Learning (OEL) administers federal and state child care funds and partners with 30 local early learning coalitions to deliver comprehensive early learning services statewide. The office oversees three programs—the School Readiness Program, the Voluntary Prekindergarten (VPK) Education Program, and Child Care Resource and Referral services. OEL is required to submit its rules to the State Board of Education for approval.

The identified rules are being repealed. Some of the content has been superseded by legislative changes. The remaining requirements are being incorporated into a single rule related to child enrollment. The time frame for the pilot program (Rule 6M-8.2015, FAC) has expired.

Supporting Documentation Included: Repealed Rules: 6M-8.200, Documenting Child Eligibility for the VPK Program, 6M-8.2015, VPK Child Registration Pilot Project, and 6M-8.202, Child Eligibility Determination and Enrollment Procedures; Sections 1002.79(2), 1002.53(2), (3), (4), (5), 1002.69(4), 1002.75(2)(a), (b), 1003.01 and 1003.21(1)(a)2, Florida Statutes.

Facilitator/Presenter: Shan Goff, Executive Director, Office of Early Learning

6M-8.200 Documenting Child Eligibility for the VPK Program.

An early learning coalition shall determine the eligibility of a child registering for the VPK program in accordance with Section 1002.53(2), F.S. A coalition shall document a child's eligibility, as follows:

(1) Age eligibility.

(a) To be eligible for VPK, a child must be 4 years of age, but not 5 years of age or older, on September 1 of the program year.

(b) The Coalition shall keep a record of at least one of the following supporting documents that shows the child's name and date of birth:

1. An original or certified copy of the child's birth record filed according to law with the appropriate public officer;

2. An original or certified copy of the child's certificate of baptism or other religious record of the child's birth, accompanied by an affidavit stating that the certificate is true and correct, sworn to or affirmed by the child's parent;

3. An insurance policy on the child's life which has been in force for at least 2 years;

4. A passport or certificate of the child's arrival in the United States;

5. An immunization record signed by a public health officer or licensed practicing physician; or

6. A valid military dependent identification card.

7. If no supporting documents listed in subparagraphs (1)(b)1.-6. above are available, a coalition may accept a parent's sworn affidavit of the child's age accompanied by a certificate of age signed by a public health officer or physician stating that the child's age shown in the affidavit is true and correct.

(c) If a child's parent is unable to submit any of the supporting documentation listed in paragraph (a), the coalition shall document the child's age based on an affidavit sworn to or affirmed by the child's parent. The affidavit must be accompanied by a certificate of age, signed by a public health officer or by a licensed practicing physician which states that the physician has examined the child and believes that the age shown in the affidavit is true and correct.

(2) Residential eligibility.

(a) To be eligible for VPK, a child must reside in Florida while attending the VPK program.

(b) The coalition shall keep a record of at least one of the following supporting documents that shows the name and residential address of a parent with whom the child resides:

1. Utility bill;

2. Pay stub;

3. Residential rental agreement or receipt from rental payment;

4. Government-issued document (e.g., Florida driver's license, Florida identification card, property tax assessment showing a homestead exemption); or

5. Military order showing that the child's parent is a service member in the United States Armed Forces and is assigned to duty in Florida when the child attends the VPK program (e.g., permanent change of station).

6. If no supporting documents listed in subparagraphs (2)(b)1.-5. above are available, a coalition may accept an affidavit sworn to or affirmed by the child's parent accompanied by a letter from a landlord or property owner which confirms that the child resides at the address shown in the affidavit.

7. If no supporting documents listed in subparagraphs (2)(b)1.-6. above are available for a homeless child as defined in Section 1003.01, F.S., a coalition shall document residency based on other supporting documents showing that the child is homeless and resides in Florida (e.g., letter from a homeless shelter or affidavit sworn to or affirmed by the child's parent).

Rulemaking Authority 1002.79(2) FS. Law Implemented 1002.53(2), (3), (4), 1002.69(4), 1002.75(2)(a), 1003.01, 1003.21(1)(a)2. FS. History—New 1-19-06, Amended 5-24-07, Formerly 60BB-8.200, Repealed

6M-8.2015 VPK Child Registration Pilot Project.

(1) Pilot Project. There is created a VPK child registration pilot project for the 2007-2008 and 2008-2009 program years in Baker, Bradford, Clay, Collier, Gadsden, Glades, Hendry, Jefferson, Lee, Leon, Liberty, Madison, Marion, Nassau, Okaloosa, Orange, Osceola, Wakulla, Walton, St. Lucie, and Taylor counties.

(2) Eligibility. A private VPK provider must meet the following requirements for initial eligibility to participate in the pilot project and must continue to meet the requirements to maintain its eligibility:

(a) The private provider must apply to participate in the pilot project on forms adopted by the early learning coalition. The following information must be included on the form: the name of the private provider, the address and telephone number of the provider's VPK site, the name of the provider's prekindergarten director or designee, the date that the director or designee attends the training session required under paragraph (c). Additional information demonstrating that the provider is eligible under this rule to participate in the pilot project may be required by the coalition.

(b) The private provider must have delivered instruction in the VPK program for at least two program years.

(c) The private provider's prekindergarten director or designee must attend a training session conducted by the coalition which instructs the provider on procedures for registering a child in the VPK program, accepting a child application and supporting documents on behalf of the coalition, and conducting a parent-orientation session or exhibiting a parent-orientation video.

(d) The private provider must comply with this rule.

(e) The private provider's VPK site must be located in one of the pilot counties listed in subsection (1).

(f) The private provider, while participating in the pilot project, must annually sign and submit to the coalition Form OEL-VPK 21 (Addendum to Statewide Provider Agreement), dated February 14, 2007, which is hereby incorporated by reference in and may be obtained as described in Rule 6M-8.900, F.A.C.

(g) The private provider must record daily child attendance using a paper sign-in or sign-out log or electronic attendance-tracking system described in paragraph 6M-8.305(2)(a), F.A.C.

(h) The private provider must submit accurate and timely monthly attendance rosters for the VPK program in accordance with subsection 6M-8.305(3), F.A.C. If a private provider is a school readiness provider, the provider must also submit accurate and timely monthly attendance rosters for the school readiness. A private provider is not eligible for the pilot project if, during previous 24 months, the provider:

1. Submitted two or more consecutive, or a combined total of four or more, monthly attendance rosters 10 or more calendar days after the required submission date;
2. Submitted two or more consecutive, or a combined total of four or more, monthly attendance rosters containing inaccurate reporting of a child's attendance;
3. Failed to repay an overpayment by the required repayment date after the coalition discovered the overpayment and requested repayment;
4. Submitted a monthly attendance roster resulting in an overpayment that exceeded 20 percent of the payment for a calendar month due to the provider's inaccurate reporting of a child's attendance; or
5. Submitted a monthly attendance roster containing fraudulent or other intentional misreporting of a child's attendance.

(i) A private provider licensed by the Department of Children and Family Services or a local licensing agency is not eligible for the pilot project if the provider's license status, as recorded in the department's Child Care Information System, is "Revocation Action Pending," "Suspension Action Pending/Suspended," or "Closed."

(3) Child Registration Procedures. A coalition shall allow a private provider eligible for the pilot project, to register a child for the VPK program on behalf of the coalition. A private provider may only

register a child under this rule whom the provider admits in one of its VPK classes and must comply with the following registration procedures:

(a) Notwithstanding subsection 6M-8.201(1), F.A.C., a parent registering his or her child for the VPK program under this rule must complete, sign, and submit to the private provider Form OEL-VPK 01P (Child Application and Provider Admission), dated February 14, 2007, which is hereby incorporated by reference and may be obtained as described in Rule 60BB-8.900, F.A.C. A parent must submit Form OEL-VPK 01P to the private provider with supporting documents of the child's age and residential address required under Rule 6M-8.200, F.A.C.

(b) Notwithstanding paragraph 6M-8.201(3)(a), F.A.C., a private provider participating in the pilot project shall conduct the parent-orientation session or exhibit the parent-orientation video in accordance with subsection 6M-8.201(3), F.A.C.

(c) Within 5 working days after a child's parent registers the child with a private provider, the provider shall review the child's Form OEL-VPK 01P and supporting documents, as follows:

1. The private provider shall submit a child's Form OEL-VPK 01P and supporting documents to the coalition if the child's Form OEL-VPK 01P is complete, signed, and submitted with the required supporting documents; the provider predetermines that the child appears to be eligible for the VPK program; and the provider admits the child in one of the provider's VPK classes.

2. The private provider shall return a child's Form OEL-VPK 01P and supporting documents to the child's parent if the child's Form OEL-VPK 01P is not complete, not signed, or not submitted with the required supporting documents.

3. If a child does not appear to be eligible, the provider shall return the child's Form OEL-VPK 01P and supporting documents to the child's parent and, on the blank spaces included on Form OEL-VPK 01P, notify the parent of the reasons that the child does not appear to be eligible and that the provider's predetermination is not the coalition's official determination of the child's eligibility. The parent may then apply directly with the coalition.

(d) In accordance with Rule 6M-8.202, F.A.C., a coalition shall determine the eligibility of a child registering for the VPK program under this rule. Notwithstanding paragraph 6M-8.202(1)(c), F.A.C., a coalition is not required to issue a certificate of eligibility for a child registering under this rule.

(e) If a coalition determines that a child is not eligible for the VPK program, the coalition shall inform the private provider and the child's parent in writing why the child is not eligible and return the child's Form OEL-VPK 01P and supporting documentation to the parent.

(4) Payment for Pilot Project Prohibited. A coalition, qualified contractor, or subcontractor may not pay or otherwise compensate a private provider for participating in the pilot project, registering a child in the VPK program under this rule, accepting a child application or supporting documents on behalf of the coalition, conducting a parent-orientation session, or exhibiting a parent-orientation video.

(5) School District. Notwithstanding Rules 6M-8.201 and 6M-8.202, F.A.C., a school district, if allowed under a contract with the coalition, may use the child registration procedures in subsection (3) to register a child for the district's VPK programs in the district's public schools, regardless of whether the district is a pilot county listed in subsection (1).

Rulemaking Authority 1002.79(2) FS. Law Implemented 1002.53(2), (4), (5), 1002.75(2)(a), (b) FS. History—New 5-24-07, Formerly 60BB-8.2015, Repealed

6M-8.202 Child Eligibility Determination and Enrollment Procedures.

(1) Determining Child Eligibility.

(a) A coalition, in accordance with Rule 6M-8.200, F.A.C., shall determine the eligibility of a child registering for the VPK program.

(b) A coalition shall determine a child's eligibility face-to-face with the child's parent unless the coalition is not required under paragraph 6M-8.201(4)(b), F.A.C., to conduct a parent-orientation session or exhibit a parent-orientation video for the child's parent.

(c)1. A coalition, upon determining that a child is eligible for the VPK program, shall issue the child's parent Form OEL-VPK 02 (Child Eligibility and Enrollment Certificate) dated February 14, 2007, which is hereby incorporated by reference and may be obtained as described in Rule 6M-8.900, F.A.C.

2. A coalition may issue a certificate of eligibility which is substantially similar to Form OEL-VPK 02 if the certificate:

- a. Includes the phrases "State of Florida" and "Voluntary Prekindergarten Education Program;"
- b. Includes the name of the early learning coalition issuing the certificate, or on whose behalf the certificate is issued;
- c. Identifies the program year and type of program (i.e., school-year or summer program) for which the certificate is issued;
- d. Clearly shows the eligible child's name and identifying information; and
- e. Does not include the logo of the Office of Early Learning, or AWI form number (i.e., Form OEL-VPK 02).

(2) Enrollment.

(a) A VPK provider may only enroll a child in the VPK program after the coalition determines that the child is eligible for the program. To enroll an eligible child, the VPK provider admitting the child must submit the child's certificate of eligibility and the child's assigned VPK class to the coalition.

(b) A coalition must allow a VPK provider to enroll a child who resides in a Florida county other than the county where the provider's VPK site is located.

(c) A VPK provider may only enroll a child with the coalition of the county where the provider's VPK site is located, regardless of the county in which the child resides.

(d) A coalition shall complete a child's enrollment in the statewide information system by recording an association between the child and the child's assigned VPK class. A coalition is encouraged, but not required, to notify a parent by mail after his or her child's enrollment is complete.

Rulemaking Authority 1002.79(2) FS. Law Implemented 1002.53(2), 1002.75(2)(a) FS. History—New 1-19-06, Amended 5-24-07, Formerly 60BB-8.202, Repealed

1002.79 Rulemaking authority.—The Office of Early Learning shall adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of this part conferring duties upon the office.

History.—s. 1, ch. 2004-484; s. 458, ch. 2011-142; s. 79, ch. 2012-96; s. 16, ch. 2013-252.

1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.—

(1) The Voluntary Prekindergarten Education Program is created and shall be organized, designed, and delivered in accordance with s. 1(b) and (c), Art. IX of the State Constitution.

(2) Each child who resides in this state who will have attained the age of 4 years on or before September 1 of the school year is eligible for the Voluntary Prekindergarten Education Program during that school year. The child remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. or until the child is admitted to kindergarten, whichever occurs first.

(3) The parent of each child eligible under subsection (2) may enroll the child in one of the following programs:

(a) A school-year prekindergarten program delivered by a private prekindergarten provider under s. 1002.55;

(b) A summer prekindergarten program delivered by a public school or private prekindergarten provider under s. 1002.61;

(c) A school-year prekindergarten program delivered by a public school; or

(d) A specialized instructional services program for children who have disabilities, if the child has been evaluated and determined as eligible, has a current individual educational plan developed by the local school board, and is eligible for the program under s. 1002.66.

Except as provided in s. 1002.71(4), a child may not enroll in more than one of these programs.

(4)(a) Each parent enrolling a child in the Voluntary Prekindergarten Education Program must complete and submit an application to the early learning coalition through the single point of entry established under s. 1002.82.

(b) The application must be submitted on forms prescribed by the Office of Early Learning and must be accompanied by a certified copy of the child's birth certificate. The forms must include a certification, in substantially the form provided in s. 1002.71(6)(b)2., that the parent chooses the private prekindergarten provider or public school in accordance with this section and directs that payments for the program be made to the provider or school. The Office of Early Learning may authorize alternative methods for submitting proof of the child's age in lieu of a certified copy of the child's birth certificate.

(c) Each early learning coalition shall coordinate with each of the school districts within the coalition's county or multicounty region in the development of procedures for enrolling children in prekindergarten programs delivered by public schools.

(5) The early learning coalition shall provide each parent enrolling a child in the Voluntary Prekindergarten Education Program with a profile of every private prekindergarten provider and public school delivering the program within the county where the child is being enrolled. The profiles shall be provided to parents in a format prescribed by the Office of Early Learning. The profiles must include, at a minimum, the following information about each provider and school:

(a) The provider's or school's services, curriculum, instructor credentials, and instructor-to-student ratio; and

(b) The provider's or school's kindergarten readiness rate calculated in accordance with s. 1002.69, based upon the most recent available results of the statewide kindergarten screening.

(6)(a) A parent may enroll his or her child with any private prekindergarten provider that is eligible to deliver the Voluntary Prekindergarten Education Program under this part; however, the provider may determine whether to admit any child. An early learning coalition may not limit the number of students admitted by any private prekindergarten provider for enrollment in the program. However, this paragraph does not authorize an early learning coalition to allow a provider to exceed any staff-to-children ratio, square footage per child, or other requirement imposed under ss. 402.301-402.319 as a result of admissions in the prekindergarten program.

(b) A parent may enroll his or her child with any public school within the school district which is eligible to deliver the Voluntary Prekindergarten Education Program under this part, subject to available space. Each school district may limit the number of students admitted by any public school for enrollment in the school-year program; however, the school district must provide for the admission of every eligible child within the district whose parent enrolls the child in a summer prekindergarten program delivered by a public school under s. 1002.61.

(c) Each private prekindergarten provider and public school must comply with the antidiscrimination requirements of 42 U.S.C. s. 2000d, regardless of whether the provider or school receives federal financial assistance. A private prekindergarten provider or public school may not discriminate against a parent or child,

including the refusal to admit a child for enrollment in the Voluntary Prekindergarten Education Program, in violation of these antidiscrimination requirements.

History.—s. 1, ch. 2004-484; s. 4, ch. 2009-3; s. 26, ch. 2010-210; s. 3, ch. 2010-227; s. 449, ch. 2011-142; s. 3, ch. 2013-252.

1002.69 Statewide kindergarten screening; kindergarten readiness rates; state-approved prekindergarten enrollment screening; good cause exemption.—

(1) The department shall adopt a statewide kindergarten screening that assesses the readiness of each student for kindergarten based upon the performance standards adopted by the department under s. 1002.67(1) for the Voluntary Prekindergarten Education Program. The department shall require that each school district administer the statewide kindergarten screening to each kindergarten student in the school district within the first 30 school days of each school year. Nonpublic schools may administer the statewide kindergarten screening to each kindergarten student in a nonpublic school who was enrolled in the Voluntary Prekindergarten Education Program.

(2) The statewide kindergarten screening shall provide objective data concerning each student's readiness for kindergarten and progress in attaining the performance standards adopted by the office under s. 1002.67(1).

(3) The statewide kindergarten screening shall incorporate mechanisms for recognizing potential variations in kindergarten readiness rates for students with disabilities.

(4) Each parent who enrolls his or her child in the Voluntary Prekindergarten Education Program must submit the child for the statewide kindergarten screening, regardless of whether the child is admitted to kindergarten in a public school or nonpublic school. Each school district shall designate sites to administer the statewide kindergarten screening for children admitted to kindergarten in a nonpublic school.

(5) The office shall adopt procedures to annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten. The methodology for calculating each provider's kindergarten readiness rate must include student learning gains when available and the percentage of students who meet all state readiness measures. The rates must not include students who are not administered the statewide kindergarten screening. The office shall determine learning gains using a value-added measure based on growth demonstrated by the results of the preassessment and postassessment from at least 2 successive years of administration of the preassessment and postassessment.

(6) The office shall periodically adopt a minimum kindergarten readiness rate that, if achieved by a private prekindergarten provider or public school, would demonstrate the provider's or school's satisfactory delivery of the Voluntary Prekindergarten Education Program.

(7)(a) Notwithstanding s. 1002.67(4)(c)3., the office, upon the request of a private prekindergarten provider or public school that remains on probation for 2 consecutive years or more and subsequently fails to meet the minimum rate adopted under subsection (6) and for good cause shown, may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program. Such exemption is valid for 1 year and, upon the request of the private prekindergarten provider or public school and for good cause shown, may be renewed.

(b) A private prekindergarten provider's or public school's request for a good cause exemption, or renewal of such an exemption, must be submitted to the office in the manner and within the timeframes prescribed by the office and must include the following:

1. Submission of data by the private prekindergarten provider or public school which documents the achievement and progress of the children served as measured by the state-approved prekindergarten enrollment screening and the standardized postassessment approved by the office pursuant to subparagraph (c)1.

2. Submission and review of data available from the respective early learning coalition or district school board, the Department of Children and Families, local licensing authority, or an accrediting association, as applicable, relating to the private prekindergarten provider's or public school's compliance with state and local health and safety standards.

3. Submission and review of data available to the office on the performance of the children served and the calculation of the private prekindergarten provider's or public school's kindergarten readiness rate.

(c) The office shall adopt criteria for granting good cause exemptions. Such criteria shall include, but are not limited to:

1. Learning gains of children served in the Voluntary Prekindergarten Education Program by the private prekindergarten provider or public school.

2. Verification that local and state health and safety requirements are met.

(d) A good cause exemption may not be granted to any private prekindergarten provider that has any class I violations or two or more class II violations within the 2 years preceding the provider's or school's request for the exemption. For purposes of this paragraph, class I and class II violations have the same meaning as provided in s. 402.281(4).

(e) A private prekindergarten provider or public school granted a good cause exemption shall continue to implement its improvement plan and continue the corrective actions required under s. 1002.67(4)(c)1., including the use of a curriculum approved by the office, until the provider or school meets the minimum rate adopted under subsection (6).

(f) If a good cause exemption is granted to a private prekindergarten provider who remains on probation for 2 consecutive years, the office shall notify the early learning coalition of the good cause exemption and direct that the coalition, notwithstanding s. 1002.67(4)(c)3., not remove the provider from eligibility to deliver the Voluntary Prekindergarten Education Program or to receive state funds for the program, if the provider meets all other applicable requirements of this part.

History.—s. 1, ch. 2004-484; s. 30, ch. 2010-210; s. 52, ch. 2011-4; s. 454, ch. 2011-142; s. 12, ch. 2011-175; s. 8, ch. 2012-133; s. 11, ch. 2013-252.

1002.75 Office of Early Learning; powers and duties.—

(1) The Office of Early Learning shall adopt by rule a standard statewide provider contract to be used with each Voluntary Prekindergarten Education Program provider, with standardized attachments by provider type. The office shall publish a copy of the standard statewide provider contract on its website. The standard statewide contract shall include, at a minimum, provisions for provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of children. The standard statewide contract shall also include appropriate due process procedures. During the pendency of an appeal of a termination, the provider may not continue to offer its services. Any provision imposed upon a provider that is inconsistent with, or prohibited by, law is void and unenforceable.

(2) The Office of Early Learning shall adopt procedures governing the administration of the Voluntary Prekindergarten Education Program by the early learning coalitions and school districts for:

(a) Enrolling children in and determining the eligibility of children for the Voluntary Prekindergarten Education Program under s. 1002.53, which shall include the enrollment of children by public schools and private providers that meet specified requirements.

(b) Providing parents with profiles of private prekindergarten providers and public schools under s. 1002.53.

(c) Registering private prekindergarten providers and public schools to deliver the program under ss. 1002.55, 1002.61, and 1002.63.

(d) Determining the eligibility of private prekindergarten providers to deliver the program under ss. 1002.55 and 1002.61 and streamlining the process of provider eligibility whenever possible.

(e) Verifying the compliance of private prekindergarten providers and public schools and removing providers or schools from eligibility to deliver the program due to noncompliance or misconduct as provided in s. 1002.67.

(f) Paying private prekindergarten providers and public schools under s. 1002.71.

(g) Documenting and certifying student enrollment and student attendance under s. 1002.71.

(h) Reconciling advance payments in accordance with the uniform attendance policy under s. 1002.71.

(i) Reenrolling students dismissed by a private prekindergarten provider or public school for noncompliance with the provider's or school district's attendance policy under s. 1002.71.

(3) The Office of Early Learning shall adopt, in consultation with and subject to approval by the department, procedures governing the administration of the Voluntary Prekindergarten Education Program by the early learning coalitions and school districts for:

(a) Approving improvement plans of private prekindergarten providers and public schools under s. 1002.67.

(b) Placing private prekindergarten providers and public schools on probation and requiring corrective actions under s. 1002.67.

(c) Removing a private prekindergarten provider or public school from eligibility to deliver the program due to the provider's or school's remaining on probation beyond the time permitted under s. 1002.67.

(d) Enrolling children in and determining the eligibility of children for the Voluntary Prekindergarten Education Program under s. 1002.66.

(e) Paying specialized instructional services providers under s. 1002.66.

(4) The Office of Early Learning shall also adopt procedures for the distribution of funds to early learning coalitions under s. 1002.71.

(5) Except as provided by law, the Office of Early Learning may not impose requirements on a private prekindergarten provider or public school that does not deliver the Voluntary Prekindergarten Education Program or receive state funds under this part.

History.—s. 1, ch. 2004-484; s. 7, ch. 2010-227; s. 459, ch. 2011-142; s. 78, ch. 2012-96; s. 14, ch. 2013-252.

1003.01 Definitions.—As used in this chapter, the term:

(1) “District school board” means the members who are elected by the voters of a school district created and existing pursuant to s. 4, Art. IX of the State Constitution to operate and control public K-12 education within the school district.

(2) “School” means an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

(3)(a) “Exceptional student” means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to s. 1003.21(1)(e).

(b) “Special education services” means specially designed instruction and such related services as are necessary for an exceptional student to benefit from education. Such services may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; services provided by a certified listening and spoken language specialist; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and other such services as approved by rules of the state board.

(4) “Career education” means education that provides instruction for the following purposes:

(a) At the elementary, middle, and high school levels, exploratory courses designed to give students initial exposure to a broad range of occupations to assist them in preparing their academic and occupational plans, and practical arts courses that provide generic skills that may apply to many occupations but are not designed to prepare students for entry into a specific occupation. Career education provided before high school completion must be designed to strengthen both occupational awareness and academic skills integrated throughout all academic instruction.

(b) At the secondary school level, job-preparatory instruction in the competencies that prepare students for effective entry into an occupation, including diversified cooperative education, work experience, and job-entry programs that coordinate directed study and on-the-job training.

(c) At the postsecondary education level, courses of study that provide competencies needed for entry into specific occupations or for advancement within an occupation.

(5)(a) “Suspension,” also referred to as out-of-school suspension, means the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal’s designee, for a period not to exceed 10 school days and remanding of the student to the custody of the student’s parent with specific homework assignments for the student to complete.

(b) “In-school suspension” means the temporary removal of a student from the student’s regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.

(6) “Expulsion” means the removal of the right and obligation of a student to attend a public school under conditions set by the district school board, and for a period of time not to exceed the remainder of the term or school year and 1 additional year of attendance. Expulsions may be imposed with or without continuing educational services and shall be reported accordingly.

(7) “Corporal punishment” means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rule. However, the term “corporal punishment” does not include the use of such reasonable force by a teacher or principal as may be necessary for self-protection or to protect other students from disruptive students.

(8) “Habitual truant” means a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student’s parent, is subject to compulsory school attendance under s. 1003.21(1) and (2)(a), and is not exempt under s. 1003.21(3) or s. 1003.24, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education. Such a student must have been the subject of the activities specified in ss. 1003.26 and 1003.27(3), without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 984.

(9) “Dropout” means a student who meets any one or more of the following criteria:

(a) The student has voluntarily removed himself or herself from the school system before graduation for reasons that include, but are not limited to, marriage, or the student has withdrawn from school because he or she has failed the statewide student assessment test and thereby does not receive any of the certificates of completion;

(b) The student has not met the relevant attendance requirements of the school district pursuant to State Board of Education rules, or the student was expected to attend a school but did not enter as expected for unknown reasons, or the student’s whereabouts are unknown;

(c) The student has withdrawn from school, but has not transferred to another public or private school or enrolled in any career, adult, home education, or alternative educational program;

(d) The student has withdrawn from school due to hardship, unless such withdrawal has been granted under the provisions of s. 322.091, court action, expulsion, medical reasons, or pregnancy; or

(e) The student is not eligible to attend school because of reaching the maximum age for an exceptional student program in accordance with the district’s policy.

The State Board of Education may adopt rules to implement the provisions of this subsection.

(10) “Alternative measures for students with special needs” or “special programs” means measures designed to meet the special needs of a student that cannot be met by regular school curricula.

(11)(a) “Juvenile justice education programs or schools” means programs or schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

(b) “Juvenile justice provider” means the Department of Juvenile Justice, the sheriff, or a private, public, or other governmental organization under contract with the Department of Juvenile Justice or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

(12) “Children and youths who are experiencing homelessness,” for programs authorized under subtitle B, Education for Homeless Children and Youths, of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. ss. 11431 et seq., means children and youths who lack a fixed, regular, and adequate nighttime residence, and includes:

(a) Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, travel trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement.

(b) Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

(c) Children and youths who are living in cars, parks, public spaces, abandoned buildings, bus or train stations, or similar settings.

(d) Migratory children who are living in circumstances described in paragraphs (a)-(c).

(13) “Regular school attendance” means the actual attendance of a student during the school day as defined by law and rules of the State Board of Education. Regular attendance within the intent of s. 1003.21 may be achieved by attendance in:

(a) A public school supported by public funds;

(b) A parochial, religious, or denominational school;

(c) A private school supported in whole or in part by tuition charges or by endowments or gifts;

(d) A home education program that meets the requirements of chapter 1002; or

(e) A private tutoring program that meets the requirements of chapter 1002.

(14) “Core-curricula courses” means:

(a) Courses in language arts/reading, mathematics, social studies, and science in prekindergarten through grade 3, excluding extracurricular courses pursuant to subsection (15);

(b) Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level and courses required for middle school promotion, excluding extracurricular courses pursuant to subsection (15);

(c) Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessment, excluding extracurricular courses pursuant to subsection (15);

(d) Exceptional student education courses; and

(e) English for Speakers of Other Languages courses.

The term is limited in meaning and used for the sole purpose of designating classes that are subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. This term does not include courses offered under ss. 1002.321(4)(e), 1002.33(7)(a)2.b., 1002.37, 1002.45, and 1003.499.

(15) “Extracurricular courses” means all courses that are not defined as “core-curricula courses,” which may include, but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit. The term is limited in meaning and used for the sole purpose of designating classes that are not subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution.

(16) “Physical education” means the development or maintenance of skills related to strength, agility, flexibility, movement, and stamina, including dance; the development of knowledge and skills regarding teamwork and fair play; the development of knowledge and skills regarding nutrition and physical fitness as part of a healthy lifestyle; and the development of positive attitudes regarding sound nutrition and physical activity as a component of personal well-being.

History.—s. 111, ch. 2002-387; s. 1, ch. 2003-391; s. 81, ch. 2004-357; s. 15, ch. 2006-74; s. 2, ch. 2007-28; s. 5, ch. 2008-147; s. 3, ch. 2008-204; s. 6, ch. 2009-164; s. 14, ch. 2011-55; s. 15, ch. 2011-175; s. 10, ch. 2012-133; s. 3, ch. 2013-225; s. 33, ch. 2014-39.

1003.21 School attendance.—

(1)(a)1. All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who have not attained the age of 16 years, except as otherwise provided, are required to attend school regularly during the entire school term.

2. Children who will have attained the age of 5 years on or before September 1 of the school year are eligible for admission to public kindergartens during that school year under rules adopted by the district school board.

(b) Any child who has attained the age of 6 years on or before September 1 of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before September 1 and has satisfactorily completed the requirements for kindergarten in a private school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district’s student progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of private schools or home education programs.

(c) A student who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student’s earning potential and must be signed by the student and the student’s parent. The school district shall notify the student’s parent of receipt of the student’s declaration of intent to terminate school enrollment. The student’s certified school counselor or other school personnel shall conduct an exit interview with the student to determine the reasons for the student’s decision to terminate school enrollment and actions that could be taken to keep the student in school. The student’s certified school counselor or other school personnel shall inform the student of opportunities to continue his or her education in a different environment, including, but not limited to, adult education and high school equivalency examination preparation. Additionally, the student shall complete a survey in a format prescribed by the Department of Education to provide data on student reasons for terminating enrollment and actions taken by schools to keep students enrolled.

(d) Students who become or have become married and students who are pregnant shall not be prohibited from attending school. These students and students who are parents shall receive the same educational instruction or its equivalent as other students, but may voluntarily be assigned to a class or program suited to their special needs. Consistent with s. 1003.54, pregnant or parenting teens may participate in a teenage parent program. Pregnant students may attend alternative education programs or adult education programs, provided that the curriculum allows the student to continue to work toward a high school diploma.

(e) Consistent with rules adopted by the State Board of Education, children with disabilities who have attained the age of 3 years shall be eligible for admission to public special education programs and for related services. Children with disabilities younger than 3 years of age who are deaf or hard of hearing; visually impaired; dual sensory impaired; orthopedically impaired; other health impaired; who have experienced traumatic brain injury; who have autism spectrum disorder; established conditions, or who exhibit developmental delays or intellectual disabilities may be eligible for special programs and may receive services in accordance with rules of the State Board of Education. Rules for the identification of established conditions for children birth through 2 years of age and developmental delays for children birth through 5 years of age must be adopted by the State Board of Education.

(f) Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist such children in meeting the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(2)(a) The State Board of Education may adopt rules under which students not meeting the entrance age may be transferred from another state if their parents have been legal residents of that state.

(b) Each district school board, in accordance with rules of the State Board of Education, shall adopt a policy that authorizes a parent to request and be granted permission for absence of a student from school for religious instruction or religious holidays.

(3) The district school superintendent may authorize certificates of exemptions from school attendance requirements in certain situations. Students within the compulsory attendance age limits who hold valid certificates of exemption that have been issued by the superintendent shall be exempt from attending school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued.

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(a) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births;

(b) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent;

(c) An insurance policy on the child's life that has been in force for at least 2 years;

(d) A bona fide contemporary religious record of the child's birth accompanied by an affidavit sworn to by the parent;

(e) A passport or certificate of arrival in the United States showing the age of the child;

(f) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if these are not available in the county, by a licensed practicing physician designated by the district school board, which states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct.

Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

History.—s. 116, ch. 2002-387; s. 18, ch. 2006-74; s. 4, ch. 2006-301; s. 4, ch. 2008-204; s. 5, ch. 2009-35; s. 7, ch. 2009-164; s. 4, ch. 2013-89; s. 16, ch. 2014-20.