

STATE BOARD OF EDUCATION

Action Item

November 18, 2014

SUBJECT: Approval of Amendment to Rule 6A-6.0331, General Education Intervention Procedures, Evaluation, Determination of Eligibility, Reevaluation and the Provision of Exceptional Student Education Services

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Sections 1001.02(1), (2)(n), 1003.4282, 1003.57, 1003.571, 1003.5715, Florida Statutes

EXECUTIVE SUMMARY

Section 1003.4282, F.S., was amended during the 2014 legislative session to create new standard diploma options for students with disabilities beginning with the student cohort entering grade 9 in 2014-2015. Special diploma will no longer be an option for these students. Students instructed in access points curriculum and administered the Florida Alternate Assessment will be able to work toward a standard diploma given this legislation. Therefore, Form 313181, Parental Consent Form – Instruction in State Standards Access Points Curriculum and Florida Alternate Assessment must be revised to align with this statutory change. In addition, timelines related to the evaluation process for students with disabilities are proposed for revision.

Supporting Documentation Included: Proposed Rule 6A-6.0331, General Education Intervention Procedures, Evaluation, Determination of Eligibility, Reevaluation and the Provision of Exceptional Student Education Services and Form 313181, Parental Consent Form – Instruction in State Standards Access Points Curriculum and Florida Alternate Assessment

Facilitator/Presenter: Mary Jane Tappen, Executive Vice Deputy Chancellor for Curriculum, Instruction, and Student Services

6A-6.0331 General Education Intervention Procedures, Evaluation, Determination of Eligibility, Reevaluation and the Provision of Exceptional Student Education Services.

The state's goal is to provide full educational opportunity and a free appropriate public education (FAPE) to all students with disabilities ages three (3) through twenty-one (21) and to students who are gifted in grades kindergarten through 12. School districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. They must ensure that all students with disabilities or who are gifted and who are in need of exceptional student education (ESE) as defined in paragraph (1)(n) of Rule 6A-6.03411, F.A.C., are identified, located, and evaluated, and FAPE is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011, 6A-6.03012, 6A-6.030121, 6A-6.03013, 6A-6.03014, 6A-6.030151, 6A-6.030152, 6A-6.030153, 6A-6.03016, 6A-6.03018, 6A-6.03019, 6A-6.03020, 6A-6.03022, 6A-6.03023, 6A-6.03026(1)(b) and 6A-6.03027, F.A.C. ESE includes specially designed instruction as defined in paragraph (1)(jj) of Rule 6A-6.03411, F.A.C.; special education as defined in paragraph (1)(kk) of Rule 6A-6.03411, F.A.C.; and related services as defined in paragraph (1)(dd) of Rule 6A-6.03411, F.A.C. These requirements apply to all students, including those who are homeless or are wards of the state or who attend private schools, regardless of the severity of their disability. Additionally, school districts may elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Steps Program. The procedures and criteria for general education interventions, identification, evaluation, and determination of eligibility of students with disabilities and gifted students by school districts shall be set forth in the school district's ESE Policies and Procedures document consistent with the following requirements.

(1) through (2) No change.

(3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a kindergarten through grade 12 student or child age three (3) to kindergarten entry age, or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability. Either a parent of a kindergarten through grade 12 student or a school district may initiate a request for initial evaluation to determine if a student is gifted.

(a) The school district must seek consent from the parent or guardian to conduct an evaluation whenever the district suspects that a kindergarten through grade 12 student, or a child age three (3) to kindergarten entry age, is a student with a disability and needs special education and related services. Circumstances which would indicate that a student may be a student with a disability who needs special education and related services include, but are not limited to, the following:

1. When a school-based team determines that the kindergarten through grade 12 student's response to intervention data indicate that intensive interventions implemented in accordance with subsection (1) of this rule are effective but require a level of intensity and resources to sustain growth or performance that is beyond that which is accessible through general education resources; or

2. When a school-based team determines that the kindergarten through grade 12 student's response to interventions implemented in accordance with subsection (1) of this rule indicates that the student does not make adequate growth given effective core instruction and intensive, individualized, evidence-based interventions; or

3. When a child age three (3) to kindergarten entry age receives a developmental screening through the school district or the Florida Diagnostic and Learning Resource Center and based on the results of the screening it is suspected that the child may be a child with a disability in need of special education and related services; or

4. ~~3.~~ When a parent requests an evaluation and there is documentation or evidence that the kindergarten through grade 12 student or child age three (3) to kindergarten entry age who is enrolled in a school district operated preschool program may be a student with a disability and needs special education and related services.

(b) Within thirty (30) ~~twenty (20)~~ school days of a school-based team's determination that a circumstance described in subparagraphs (3)(a)1., ~~or (3)(a) 2., or (3)(a)3.,~~ of this rule exists for a student in grades kindergarten through grade 12; or a child age three (3) to kindergarten entry age, the school district must request consent from the parent to conduct an evaluation, unless the parent and the school agree otherwise in writing.

(c) As described in subparagraph (3)(a)~~4.3.~~ of this rule, if a parent requests that the school conduct an evaluation to determine whether their child ~~the kindergarten through grade 12 student's or child's age three (3) to kindergarten entry age~~ is a child with a disability in need of special education and related services, eligibility for special education and related services as a student with a disability, the school district must within thirty (30) ~~twenty (20)~~ school days, unless the parent and the school agree otherwise in writing:

1. through (d)2. No change.

3. The nature or severity of the student's areas of concern makes the general education intervention procedures inappropriate in addressing the immediate needs of the student.

(e) No change.

(f) For a signed consent for evaluation received by a school district on or before June 30, 2015, ~~The~~ school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) as defined in paragraph 6A-6.03411(1)(h), F.A.C., that the student is in attendance after the school district's receipt of parental consent for the evaluation. For prekindergarten children, initial evaluations must be completed within sixty (60) school days after the school district's receipt of parental consent for evaluation.

(g) Beginning July 1, 2015, the school district shall ensure that initial evaluations of students and preschool age children age three (3) through kindergarten entry age suspected of having a disability are completed within sixty (60) calendar days after the school district's receipt of parent consent for evaluation. For the purposes of this rule, the following calendar days shall not be counted toward the sixty (60) calendar day requirement:

1. All school holidays and Thanksgiving, winter and spring breaks as adopted by the district school board as required by Rule 6A-10.019, F.A.C.;

2. The summer vacation period beginning the day after the last day of school for students and ending on the first day of school for students in accordance with the calendar adopted by the district school board as required by Rule 6A-10.019, F.A.C. However, the school district is not prohibited from conducting evaluations during the summer vacation period; and,

3. In the circumstance when a student is absent for more than eight (8) school days in the sixty (60) calendar day period, the student's absences shall not be counted toward the sixty (60) calendar day requirement.

~~(h)~~ ~~(g)~~ The sixty (60)-day timeframe for evaluation does not apply to a school district if:

1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation; or

2. A student enrolls in a school served by the school district after the timeframe has begun, and prior to a determination by the student's previous school district as to whether the student is a student with a disability. This exception applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed. Assessments of students with disabilities who transfer from one school district to another school district in the same school year must be coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

~~(i)~~ ~~(h)~~ The school district shall ensure that students suspected of being gifted are evaluated within a reasonable period of time as specified in the district's ESE Policies and Procedures Document as defined in subsection 6A-6.03411(2), F.A.C., but no more than ninety (90) school days that the student is in attendance after the school district's receipt of parental consent for the evaluation.

(4) through (10)(a) No change.

(b) The district shall obtain written parental consent for the actions described above on the Parental Consent Form – Instruction in the State Standards Access Points Curriculum and Florida Alternate Assessment Administration, Form 313181, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03383>) (effective December 2014) English, Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese, and Parental Consent Form – Student Placement in an Exceptional Education Center, Form 313182, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03384>) (effective March 2014) English, Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese, adopted by the Department of Education and incorporated by reference to become effective March 2014 and available at <http://www.fldoe.org/ese/> or may be obtained from the Department of Education, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Room 614, Tallahassee, FL 32399. Both forms were translated into Arabic, Chinese, French, Haitian Creole, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

(c) through (d) No change.

Rulemaking Authority 1001.02(1), (2)(n), 1003.4282, 1003.57, 1003.571, 1003.5715 FS. Law Implemented 1003.01(3)(a), (b), 1003.4282, 1003.57, 1003.571, 1003.5715FS. History New 6-17-74, Promulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A 6.331, Amended 7-13-93, 1-2-95, 9-20-04, 12-22-08, 12-15-09, 3-25-14,

