

**6A-6.03028 Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities.**

(1) Entitlement to FAPE. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to FAPE consistent with the requirements of Section 1003.571, F.S., and Rules 6A-6.03011 through 6A-6.0361, F.A.C. FAPE shall be made available to students with disabilities, including students who have been suspended or expelled, and any individual student with a disability who needs special education and related services, even though the student has not failed or been retained in a course or grade, and is advancing from grade to grade. The obligation to make FAPE available to all students with disabilities does not apply with respect to the following:

(a) Students with disabilities who have graduated from high school with a standard diploma, and who have not deferred receipt of the diploma, in accordance with Section 1003.4282(8)(c), F.S. A standard diploma does not include an alternative degree that is not fully aligned with the state's academic standards, ~~such as a certificate of completion~~ or a general educational development credential (GED); and,

(b) No changes.

(2) No changes.

(3) No changes.

*Rulemaking Authority 1001.02(1), (2)(n), 1003.01, 1003.4203, 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22 FS. Law Implemented 1002.33, 1003.01, 1003.4203, 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1003.5716, 1008.22 FS. History—New 7-13-93, Amended 10-17-04, 12-22-08, 12-15-09, 3-25-14, 12-23-14, 1-7-16, 5-3-22, 9-26-23, 2-20-24, 8-27-24, \_\_\_\_.*

**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 6A-6.03411(1)(n), 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, paragraph 6A-6.03026(1)(b) and Rule 6A-6.03027, F.A.C. ESE includes specially designed instruction as defined in paragraph 6A-6.03411(1)(jj), F.A.C.; special education as defined in paragraph 6A-6.03411(1)(kk), F.A.C.; and related services as defined in paragraph 6A-6.03411(1)(dd), 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) - (2) No changes.

(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) - (f) No changes.

(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 Section 1001.42(4), F.S.;

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 Section 1001.42(4), F.S. 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.

4. The number of days the school district is closed due to inclement weather/natural disasters shall not be counted toward the sixty (60) calendar day timeline, only if all requirements are met:

1. School districts impacted by natural disasters and necessitating closures due to these events must be explicitly named in the Governor's executive order and are subject to confirmation by the department.

2. The school district is required to maintain ongoing communication with the parents of any student whose initial evaluation is pending, particularly if the school closures hinder the completion of the evaluation within the established 60-day timeline.

3. The school district must provide the department with a list of student names whose initial evaluation consent dates precede the dates of the district's closure due to the natural disaster, as long as these dates fall before the conclusion of the 60-calendar-day requirement.

4. The closure dates of the district must coincide with the 60-calendar-day timeline designated for the initial evaluation.

(h) No changes.

(4) - (10) No changes.

*Rulemaking Authority 1001.02(1), (2)(n), 1003.4282, 1003.57, 1003.571, 1003.5715 FS. Law Implemented 1003.01(9)(a), (b), 1003.4282, 1003.57, 1003.571, 1003.5715 FS. History New 6-17-74, Amended 12-5-74, 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, 12-23-14, 8-16-22, \_\_\_\_.*