



Education Law: Early Childhood through Transitions

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Early Childhood Education

Early Childhood:

IDEA Part C, 20 U.S.C. § 1431-1444

Early intervention services for children birth to age 3 with developmental delays or disabilities:
Early Steps: Chapter 391, Florida Statutes, Children's Medical Services

<http://www.floridahealth.gov/programs-and-services/childrens-health/early-steps/index.html>

Early Steps Timeline

- Formal referral must be made no more than 7 days after the child has been identified as potentially eligible.
- Eligibility: lead agency has 45 days to make an eligibility determination and hold the initial Individualized Family Service Plan (IFSP) meeting.
- Evaluations: Must be comprehensive and multidisciplinary. Not necessary if child has a specifically diagnosed physical or mental condition that will likely result in a developmental delay, but still need assessments to determine strengths and needs. Screenings for evaluation are allowed, but must be within the 45 days.
- If eligible, then an assessment should be done to determine the child's strengths and needs and the supports which the family requires to meet those needs.
- Review IFSP at least every 6 months and annually to determine progress.
- Transition plan must be included in the IFSP not fewer than 90 days, and not more than 9 months, before the child's third birthday. Plan should outline what services the child needs after turning 3.

Practice notes:

- Referral must be made for all children under age 3 who are the subject of a substantiated case of abuse or neglect or identified as being directly affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
- Look at the CBHA, Predisposition Study and Shelter Petition/Order to see if your client qualifies for a referral and necessary follow up has been done.

Child Care Standards for Children in Licensed Out-of-Home Care

Fla. Admin. Code 65C-13.030(2)(d): Standards for Licensed Out-of-Home Caregivers: Child care for children in licensed out-of-home care shall be chosen by the caregiver according to the following order:

1. Gold Seal accredited child care providers or providers participating in a quality rating system;
2. Licensed child care providers;
- 3 . Public school providers;
4. License exempt child care providers, including religious exempt, registered and non-public schools. These providers must be participating in the school readiness program through the local early learning coalition.

If there is no available Gold Seal accredited child care provider or space for the child at the Gold Seal provider, then the caregiver shall choose a licensed child care provider. If a licensed child care provider has no availability, the caregiver shall choose a public school provider. If there is no availability at a public school provider, the caregiver shall choose a license exempt child care provider as required by this subparagraph[.]

IDEA Part B: Ages 3-21

- Child Find Requirements: Responsibilities shift to school districts to provide, identify, locate and evaluate children needing early intervention services; Parents can request an evaluation.
- Developmental Delay in 1 or more of following: (1) Adaptive or self-help, (2) Cognitive, (3) Communication, (4) Social or emotional, (5) Physical, including fine, gross or perceptual motor development.
- Family and service providers should collaborate in the development of the IEP.

Practice Pointers for Ages 3-5

- Object to unnecessary delays in the evaluation. Timeline for initial evaluation is within 60 calendar days after the school district's receipt of parental consent for evaluation. Fla. Admin. Code 6A-6.0331. Calendar days don't include: school holidays, Thanksgiving, winter and spring break, and summer vacation.
- Evaluations should be conducted in the student's native language.



Elementary School
and Middle School

Literacy

- Many stages of literacy, i.e. oral language, phonics, fluency, comprehension, vocabulary, writing
- Diagnostic tool used by district – know the expected level and current level of performance of child
- <http://ies.ed.gov/ncee/wwc/findwhatworks.aspx>

Statewide Assessments

- [Florida Standards Assessments](#): The Florida Standards Assessments, which measure student success with the Florida Standards, include assessments in English language arts (grades 3-11), mathematics (grades 3-8), and end-of-course assessments for Algebra 1, Geometry, and Algebra 2.
- [Statewide Science Assessment](#): The statewide science assessment measures student success with the Next Generation Sunshine State Standards and includes assessments in grades 5 and 8.
- [EOC Assessments](#): The End-of-Course Assessments are computer-based tests designed to measure student achievement of the specified standards for middle- and high-school level courses in science (Biology 1), social studies (Civics and U.S. History), and mathematics (Algebra 1, Geometry, and Algebra 2).

Florida Department of Education

<http://www.fldoe.org/accountability/assessments/k-12-student-assessment/>

Florida Standards Alternate Assessment (FSAA)

- The Florida Standards Alternate Assessment (FSAA) is designed for students whose participation in the general statewide assessment program is not appropriate, even with accommodations.
- The FSAA measures student academic performance on the Access Points (FS-AP) in Language Arts, Mathematics, and Science.
- Students' achievement is reported through performance levels described as emergent, achieved and commended.
- Access Points are academic expectations written specifically for students with significant cognitive disabilities. It is expected that only students with the most significant cognitive disabilities who are eligible under [IDEA](#) will participate in the FSAA.

Florida Department of Education,

<http://www.fldoe.org/accountability/assessments/k-12-student-assessment/>

Section 1008.25, Florida Statutes - Assessments

- (4) ASSESSMENT AND SUPPORT.—
- (a) Each student must participate in the statewide, standardized assessment program required by s. [1008.22](#). Each student who does not achieve a Level 3 or above on the statewide, standardized English Language Arts assessment, the statewide, standardized Mathematics assessment, or the Algebra I EOC assessment must be evaluated to determine the nature of the student's difficulty, the areas of academic need, and strategies for providing academic supports to improve the student's performance.
- (b) A student who is not meeting the school district or state requirements for satisfactory performance in English Language Arts and mathematics must be covered by one of the following plans:
1. A federally required student plan such as an individual education plan;
 2. A schoolwide system of progress monitoring for all students, except a student who scores Level 4 or above on the English Language Arts and mathematics assessments may be exempted from participation by the principal; or
 3. An individualized progress monitoring plan.

Section 1008.25, Florida Statutes – Reading Deficiencies

(5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

- (a) Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten or grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency. The student's reading proficiency must be monitored and the intensive instruction must continue until the student demonstrates grade level proficiency in a manner determined by the district, which may include achieving a Level 3 on the statewide, standardized English Language Arts assessment.
- (b) To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized English Language Arts assessment required under s. [1008.22](#) for grade 3. If a student's reading deficiency is not remedied by the end of grade 3, as demonstrated by scoring Level 2 or higher on the statewide, standardized assessment required under s. [1008.22](#) for grade 3, the student must be retained.
- (c) The parent of any student who exhibits a substantial deficiency in reading, as described in paragraph (a), must be notified in writing of the following:
 1. That his or her child has been identified as having a substantial deficiency in reading.
 2. A description of the current services that are provided to the child.
 3. A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.
 4. That if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless he or she is exempt from mandatory retention for good cause.
 5. Strategies for parents to use in helping their child succeed in reading proficiency.
 6. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the child to assist parents and the school district in knowing when a child is reading at or above grade level and ready for grade promotion.
 7. The district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for a student to demonstrate mastery of Florida's academic standards for English Language Arts. A parent of a student in grade 3 who is identified anytime during the year as being at risk of retention may request that the school immediately begin collecting evidence for a portfolio.
 8. The district's specific criteria and policies for midyear promotion. Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level.

Section 1008.25, Florida Statutes – Retention and Good Cause Exceptions

(6) ELIMINATION OF SOCIAL PROMOTION.—

- (a) No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.
- (b) The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(b), for good cause. A student who is promoted to grade 4 with a good cause exemption shall be provided intensive reading instruction and intervention that include specialized diagnostic information and specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers with the implementation of reading strategies for students promoted with a good cause exemption which research has shown to be successful in improving reading among students who have reading difficulties. Good cause exemptions are limited to the following:
 1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program based on the initial date of entry into a school in the United States.
 2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of s. [1008.212](#).
 3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.
 4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized English Language Arts assessment.
 5. Students with disabilities who take the statewide, standardized English Language Arts assessment and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive instruction in reading or English Language Arts for more than 2 years but still demonstrates a deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.
 6. Students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained more than once in grade 3.
 7. Students who have received intensive remediation in reading or English Language Arts for 2 or more years but still demonstrate a deficiency and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

Section 1008.25(7), Florida Statutes – Successful Progression For Retained Third Grade Students

- (a) Students retained under the provisions of paragraph (5)(b) must be provided intensive interventions in reading to ameliorate the student’s specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district’s summer reading camp, and appropriate teaching methodologies necessary to assist those students in becoming successful readers, able to read at or above grade level, and ready for promotion to the next grade.
- (b) Each school district shall:
 1. Provide third grade students who are retained under the provisions of paragraph (5)(b) with intensive instructional services and supports to remediate the identified areas of reading deficiency, including participation in the school district’s summer reading camp as required under paragraph (a) and a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction which includes phonemic awareness, phonics, fluency, vocabulary, and comprehension and other strategies prescribed by the school district, which may include, but are not limited to:
 - a. Integration of science and social studies content within the 90-minute block.
 - b. Small group instruction.
 - c. Reduced teacher-student ratios.
 - d. More frequent progress monitoring.
 - e. Tutoring or mentoring.
 - f. Transition classes containing 3rd and 4th grade students.
 - g. Extended school day, week, or year.
 2. Provide written notification to the parent of a student who is retained under the provisions of paragraph (5)(b) that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption as provided in paragraph (6)(b). The notification must comply with the provisions of s. [1002.20\(15\)](#) and must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.
 3. Implement a policy for the midyear promotion of a student retained under the provisions of paragraph (5)(b) who can demonstrate that he or she is a successful and independent reader and performing at or above grade level in reading or, upon implementation of English Language Arts assessments, performing at or above grade level in English Language Arts. Tools that school districts may use in reevaluating a student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Students promoted during the school year after November 1 must demonstrate proficiency levels in reading equivalent to the level necessary for the beginning of grade 4. The rules adopted by the State Board of Education must include standards that provide a reasonable expectation that the student’s progress is sufficient to master appropriate grade 4 level reading skills.
 4. Provide students who are retained under the provisions of paragraph (5)(b) with a highly effective teacher as determined by the teacher’s performance evaluation under s. [1012.34](#).
 5. Establish at each school, when applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score Level 1 on the required statewide, standardized assessment identified in s. [1008.22](#). The focus of the Intensive Acceleration Class shall be to increase a child’s reading and English Language Arts skill level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:
 - a. Be provided to a student in grade 3 who scores Level 1 on the statewide, standardized English Language Arts assessment and who was retained in grade 3 the prior year because of scoring Level 1.
 - b. Have a reduced teacher-student ratio.
 - c. Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 Next Generation Sunshine State Standards in other core subject areas.
 - d. Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.
 - e. Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

Response to Intervention

- Tier 1 – F.A.C. **6A-6.053**
 - Used for all students
 - 90 minutes of reading
 - 30 minutes math
 - School-wide behavior system
 - 80% of students successful
- Tier 2 – F.A.C. **6A-6.054**
 - Smaller groups
 - Additional instructional time
 - Additional focused behavioral interventions
 - Frequent data collection and assessment
 - 15% of students require this level of intervention for success
- Tier 3 – F.A.C. **6A-6.054**
 - Individual to very small groups
 - Additional instructional time
 - Additional focused behavioral interventions
 - Frequent data collection and assessment
 - 5% of students require this level of intervention for success

Florida Statutes, Section 39.0016 - Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.

- Interagency Agreements between Department and School District
- Department responsibilities:
 - a. Ensure that children known to the department are enrolled in school or in the best educational setting that meets the needs of the child. The agreement shall provide for continuing the enrollment of a child known to the department at the school of origin when possible if it is in the best interest of the child, with the goal of minimal disruption of education.
 - b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.
 - c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.
 - d. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.
 - e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

Discipline

- Suspensions
- Alternative education
- Functional Behavioral Assessment (FBA)
- Behavior Intervention Plan (BIP)
- ESE – 10 days for manifestation determination
- Center schools

Educational Surrogates

Section 39.0016, Fla. Stat. (2014)

(3)(b)1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. [1003.01](#)(3), when:

- a. After reasonable efforts, no parent can be located; or
- b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.



High School and Transitions

School Transition Services, 20 U.S.C. §1401(34)

- *See also* 34 C.F.R. §300.43
- Transition Services defined:
 - Coordinated set of activities for child with a disability
 - A) “results-oriented process”
 - B) based on individual child’s needs
 - C) includes instruction, related services, community experiences, development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation

School Transition Services

- IDEA requires planning to begin at age 16, but Florida requires planning to begin at **14**
- For IEP in effect at age 14, a purpose of IEP meeting must be identifying transition services of the student and *student will be invited to meeting*; F.A.C. 6A-6.030284(3)(b)(4)
- F.A.C. 6A-6.030284(3)(h)(8), IEP in place at 14 shall include:
 - A statement of intent to pursue a standard high school diploma and merit designation
 - Preparation needed for the student to achieve diploma goal
 - Consideration of the student's need for instruction or the provision of information in the area of self-determination and self-advocacy to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, so that needed postsecondary and career goals may be identified and in place by age 16.

School Transition Services, 20 U.S.C. §1414(d)(1)(A)(i)(VIII)

- *See also* 34 C.F.R. §300.320(b) – (c)
- Per IDEA, IEP at age 16 should include:
 - Appropriate measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills
 - Transition services needed to assist child in reaching those goals
- F.A.C. 6A-6.030284(3)(h)(9) additional requirements:
 - A statement of intent to receive a standard high school diploma before age twenty-two and description of how student will fully meet requirements for diploma (does not apply if student already pursuing special option diploma)
 - A statement of outcomes and additional benefits expected by parent and IEP team at time of student's graduation
- Student is invited to meeting and “[school] district will identify any other agency that will be invited to send a representative to the meeting.” F.A.C. 6A-6.030284(3)(b)(5)
- Child needs to be advised at least a year in advance of reaching age 18 that education rights transfer to her upon majority

Transition Plan, §39.6035

- Must be developed within 180 days of child's 17th birthday
 - Meeting to develop the plan must be held at a time convenient for child, must include anyone the child wishes to include
- Plan needs to be specific re: housing, work, etc.
- Must coordinate with case plan, IDEA transition plan
- Shall be updated as necessary, both before and after child turns 18
- Should be reviewed by judge prior to child turning 18—must be *approved* by judge if pre-18 plan is for child to opt-out of care

Extended Foster Care, §39.6251

- DCF provides housing, financial assistance, and case management services to young adults 18-21 (or 22 if they have a disability)
- Youth must have been in the custody of DCF on their 18th birthday
- To remain eligible, young adult needs to participate in a qualifying activity:
 - Enrolled in school full-time
 - Working part-time
 - Participating in a program to eliminate barriers to employment
 - Cannot participate in one of the above activities because of a limiting condition (psychiatric, emotional, physical)—must have documentation
- Juvenile court retains jurisdiction as long as the young adult meets the qualifying criteria

Postsecondary Education Services and Support (PESS), §409.1451(2)

- Monthly stipend of \$1,256 for young adults 18-23 who have:
 - High school diploma or GED
 - Enrolled in at least 9 credit hours at postsecondary institution
- To be eligible, young adult:
 - Must have spent at least 6 months in licensed care
 - Must have been in DCF custody on 18th birthday, OR adopted after 16th birthday, OR placed with dependency guardian after 16th birthday AND
 - If adopted or placed with dependency guardian, youth must have 6 months in licensed care within the 12 months immediately preceding placement with guardian

Aftercare Services, §409.1451(3)

- DCF assistance for youth 18-23 not in EFC or PESS
- Can be financial assistance or services (i.e. job skills training, tutoring, etc.)
- Not really meant to be ongoing source of support
- DCF administrative rules state that youth must have turned 18 in licensed care—not in the statute!

School Placement Options: Choice Programs

- Magnet programs
- Charter schools
- Application deadlines vary by district, school
- Transportation not always provided by school district

School Placement Options: McKay Public School Option

- Fla. Stat. §1002.39, F.A.C. 6A-6.0970
- For kids with 504 plan or IEP
- Can now choose *any* public school
 - Limited by school's ability to provide services in IEP/504 plan
 - Transportation
- First apply through FDOE at:
<https://www.floridaschoolchoice.org/Intent/McKayIntent/StudentIntent.aspx>
- Then contact district personnel at child's school district:
http://www.floridaschoolchoice.org/Information/District/district_list.asp?prgmttype=2

McKinney-Vento

- 42 U.S.C. §11434a:
 - Applies to homeless children who do not have a fixed, regular nighttime residence
 - Foster children who are in emergency shelter or are awaiting placement also included.
- Children should be kept in school of origin to the extent feasible unless contrary to wishes of the parent/caregiver.
- Denials should be in writing. Disputes can be made to the school district homeless liaison. The LEA must immediately enroll the child in the school of origin or residency, based on caregiver's wishes, and provide transportation pending resolution of the dispute. Appeals can be made to FDOE.

Every Student Succeeds Act (ESSA)

- Reauthorization of No Child Left Behind Act
- Supposed to work in connection with Fostering Connections to Success and Increasing Adoptions Act to ensure cooperation between schools and child welfare agencies
- Removes foster care language from McKinney –requires state Title I plans to provide similar protections for foster children
- SEA must assign point of contact to work with state child welfare agency
- LEAs must have point of contact if child welfare agency has point of contact for that LEA
- New Title I plans must be in place by December 10, 2016