

**STATE BOARD OF EDUCATION**  
**Action Item**  
November 18, 2014

**SUBJECT:** Approval of Amendment to Rule 6A-6.03028, Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities

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**PROPOSED BOARD ACTION**

For Approval

**AUTHORITY FOR STATE BOARD ACTION**

Sections 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22, Florida Statutes

**EXECUTIVE SUMMARY**

Rule 6A-6.03028, F.A.C., is being revised to reflect changes in sections 1003.4282 and 1003.4203 F.S., which were amended during the 2014 legislative session, and section 1003.5716, F.S., which was created during the 2014 legislative session. The proposed rule amends the requirements for transition planning before the age of 14 to include a statement of intent to pursue a standard high school diploma pursuant to section 1003.4282(1)-(9), F.S., or section 1003.4282(11), F.S., and a Scholar or Merit designation in accordance with individual educational plan section 1003.4285, F.S., as determined by the parent and the preparation needed for the student to graduate with the option and designation chosen. In addition the rule amends the requirements related to the transition plan to include, beginning not later than the first individual educational plan (IEP) to be in effect when the student turns sixteen, a statement of intent to receive a standard high school diploma before the student attains the age of 22 and how the student will fully meet the requirements; in addition, a statement of the outcomes and the additional benefits expected by the parent and the IEP team at the time of the student's graduation is required.

Beginning in the 2015-2016 school year, the IEP must reflect a statement of intent regarding the Career and Professional Education (CAPE) digital tool certificates and the CAPE industry certifications that the student seeks to attain before high school graduation.

The Model Communication Plan for students who are deaf or hard of hearing is also proposed for revision.

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**Supporting Documentation Included:** Proposed Rule 6A-6.03028, Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities and Form 313189, Communication Plan

**Facilitator/Presenter:** Mary Jane Tappen, Executive Vice Chancellor, K-12 Public Schools

**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(11)(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) through (2) No change.

(3) IEP Requirements. An IEP must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student.

(a) Role of parents. The role of parents in developing IEPs includes, but is not limited to:

1. Providing critical information regarding the strengths of their student;
2. Expressing their concerns for enhancing the education of their student so that their student can receive FAPE;
3. Participating in discussions about the student's need for special education and related services;
4. Participating in the determination of how the student will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;

5. Participating in the determination of what services the school district will provide to the student and in what setting; and

6. Participating in the determination of which whether the student is pursuing a course of study leading towards a standard diploma the student will pursue, consistent with Sections ~~1003.428~~ and 1003.4282, F.S., to include a course of study leading to a Scholar or Merit designation in accordance with Section 1003.4285, F.S. or a special diploma, consistent with Section 1003.438, F.S.

(b) through 4. No change.

5. Not later than the first IEP to be in effect when the student turns sixteen (16), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be consideration of the postsecondary and career goals and transition services for the student, that the district will invite the student, and identify any other agency that will be invited to send a representative to the meeting.

6. through (c)6. No change.

7. The student, if appropriate, and in all cases where a purpose of the meeting will be the identification of the student's transition services needs or consideration of postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP meeting to identify transition services needs or consider postsecondary and career goals and transition services, the school district shall take other steps to ensure that the student's preferences and interests are considered.

8. through (g)8. No change.

9. In the case of a student who is deaf or hard-of-hearing or dual-sensory impaired, the ~~Model~~ Communication Plan ~~Form~~ 313189, effective December ~~March~~ 2014, is available at (<http://www.flrules.org/Gateway/reference.asp?No=Ref-03382>) 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. The ~~Model~~ Communication Plan form is incorporated by reference and shall be used to address, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

10. through (h)4. No change.

5. A statement of any individual appropriate accommodations in the administration of statewide standardized assessments as described in Section 1008.22(3), F.S., or district assessments of student achievement that are necessary in order to measure the academic achievement and functional performance of the student on the assessments. Accommodations that negate the validity of a statewide assessment are not allowable in accordance with Section 1008.22(3)(c)3., F.S. If the IEP Team determines that the student will take the Florida Alternate Assessment instead of other statewide standardized assessments or an alternate district assessment of student achievement, the IEP must include a statement of why the student can not participate in other statewide standardized assessments or district assessments and, if applicable, why the particular district alternate assessment selected is appropriate for the student. If a student does not participate in the statewide assessment program as a result of being granted an extraordinary exemption in accordance with the provisions of Section 1008.212, F.S., or a medically complex exemption in accordance with Section 1008.22(9), F.S., the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation in accordance with Section 1008.22(3), F.S.

6. through 7. No change.

~~8. In accordance with Rule 6A-1.09961, F.A.C., during the student's eighth (8th) grade year or during the school year of the student's fourteenth (14th) birthday, whichever comes first, a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma.~~

~~8.9.~~ Before attaining the age of fourteen (14), in order to ensure quality transition planning and services, IEP ~~t~~Teams shall begin the process of identifying transition services needs of students with disabilities, to include the following:

a. A statement of intent to pursue a standard high school diploma pursuant to Section 1003.4282(1)-(9), F.S., or Section 1003.4282(11), F.S., and a Scholar or Merit designation in accordance with Section 1003.4285, F.S., as determined by the parent;

b. The preparation needed for the student to graduate from high school with a standard diploma and a Scholar or Merit diploma designation as determined by the parent; and

c. Ceonsideration 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, ~~beginning no later than age fourteen (14),~~ so that needed postsecondary and career goals may be identified and in place by age sixteen (16).

~~9.10.~~ Beginning not later than the first IEP to be in effect when the student turns sixteen (16), or younger, if determined appropriate by the IEP Team and updated annually, the IEP must include the following:

a. A statement of intent to receive a standard high school diploma before the student attains the age of twenty-two (22) and a description of how the student will fully meet the requirements of Section 1003.4282, F.S. This requirement does not apply if the student entered grade 9 prior to the 2014-2015 school year and is pursuing a special diploma in accordance with the student's IEP;

b. A statement of the outcomes and the additional benefits expected by the parent and the IEP team at the time of the student's graduation;

c. ~~a.~~ A statement of appropriate measurable postsecondary and career goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services (including courses of study) needed to assist the student in reaching those goals; and-

d. ~~b.~~ If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP. However, this does not relieve any participating agency, including Division of Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

10. ~~11.~~ Beginning at least one (1) year before the student's eighteenth (18th) birthday, a statement that the student has been informed of his or her rights under Part B of the IDEA, if any, that will transfer from the parent to the student on reaching the age of majority, which is eighteen (18) years of age.

11. Beginning with the 2015-2016 school year, a statement identifying the Career and Professional Education (CAPE) digital tool certificates and the CAPE industry certifications that the student seeks to attain before high school graduation, if any, pursuant to Section 1003.4203, F.S.

(i) through (j) No change.

(k) Changes to the IEP. Generally, changes to the IEP must be made by the entire IEP Team at an IEP Team meeting and may be made by amending the IEP rather than by redrafting the entire IEP. However, in making changes to a student's IEP after the annual IEP meeting for a school year, the parent and the school district may agree not to convene an IEP Team meeting for purposes of making those changes, and instead may develop a

written document to amend or modify the student's current IEP. If changes are made to the student's IEP without a meeting, the school district must ensure that the student's IEP Team is informed of those changes. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. In addition, the following changes to the IEP and decisions made by the IEP team must be approved by the parent or the adult student if rights have transferred in accordance with Rule 6A-6.03311(8), F.A.C. Such changes are subject to an independent reviewer selected by the parent as provided in Section 1003.572, F.S., and include:

1. Changes to the postsecondary or career goals; and,

2. Beginning with students entering grade 9 in the 2014-2015 school year, changes in the selected graduation option specified in the student's IEP and any waiver of statewide standardized assessment results made by the IEP team in accordance with the provisions of Section 1008.22(3)(c), F.S.

(l) through (s) No change.

(t) Program options. Each school district must take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the school district, including art, music, industrial arts, consumer and homemaking education, and career technical ~~vocational~~ education.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.4282, 1003.55, 1003.57, 1003.571, 1003.5715, 1008.22 FS. Law Implemented 1002.33, 1003.01(3)(a), (b), 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,

## Communication Plan

**Student:**

**DOB:**

**School:**

**Grade:**

**Primary Area of Eligibility:**

**Hearing Age:** \_\_\_\_\_

**Secondary Area(s) of Eligibility (if applicable):**

**Date Communication Plan Was Completed:**        /        /

### I. CONSIDER THE STUDENT'S LANGUAGE AND COMMUNICATION

1. The student's language (i.e. English, Spanish) is one or more of the following (check all that apply and enter languages used):

Receptive	Expressive	
<input type="checkbox"/>	<input type="checkbox"/>	No emerging language
<input type="checkbox"/>	<input type="checkbox"/>	Spoken language
<input type="checkbox"/>	<input type="checkbox"/>	Sign language

2. The student's primary method(s) to access and use language is one or more of the following (check all that apply):

Receptive	Expressive	
<input type="checkbox"/>	<input type="checkbox"/>	Auditory-oral methods (spoken language)
<input type="checkbox"/>	<input type="checkbox"/>	American Sign Language (ASL)
<input type="checkbox"/>	<input type="checkbox"/>	Signed supported speech (sign supporting spoken English)
<input type="checkbox"/>	<input type="checkbox"/>	Bilingual, bimodal ASL and-English
<input type="checkbox"/>	<input type="checkbox"/>	English sign system
<input type="checkbox"/>	<input type="checkbox"/>	Gestures or /home signs
<input type="checkbox"/>	<input type="checkbox"/>	Tactile sign language
<input type="checkbox"/>	<input type="checkbox"/>	Cued speech
<input type="checkbox"/>	<input type="checkbox"/>	Print or braille
<input type="checkbox"/>	<input type="checkbox"/>	Assistive technology (AT) – communication devices or systems
<input type="checkbox"/>	<input type="checkbox"/>	Emerging language or no formal language established
<input type="checkbox"/>	<input type="checkbox"/>	Tangible symbol system

3. How do the parents currently communicate with the student? Describe language(s) and communication modes the parents use with the student. Document how information about communication with family was gathered.
4. What (if any) language and communication development services is the student receiving outside of the school?
5. Describe the student's receptive and expressive language(s) communication skills based on formal and informal language and communication assessment results (e.g., phonics and phonemic awareness, vocabulary, comprehension, fluency, morphology, grammar, pragmatics, sign language literacy).

6. What (if any) other factors influence language and communication development, such as physical, cognitive, social-emotional, medical diagnosis, or additional identified exceptionalities?
7. Describe information to be shared with the family to support effective communication and language development within the home environment.

## II. CONSIDERATIONS FOR ACCOMMODATIONS AND ASSISTIVE TECHNOLOGY

In this section, using the results of auditory assessments and evaluations, a functional listening evaluation (FLE) in educational environments, assistive technology assessments, current use of accommodations and assistive technologies to access the curriculum and participate in classroom and school activities, determine the accommodations and assistive technologies required to increase and maintain proficiency in meeting state standards.

1. Consider auditory access – what does the student currently use and what supports are required?
  - No amplification
  - Personal amplification
    - Personally owned hearing aid(s)
    - School-provided hearing aid(s)
    - Hearing implant(s) (cochlear implant, bone anchored implant, etc.)
  - Assistive listening device
    - Personally owned device
    - School-provided FM system or auditory trainer
    - School-provided soundfield system
2. Is the amplification or assistive technology device used consistently?
  - Yes
  - No

Explain how amplification is monitored.

  - Daily hearing technology checks by school staff
  - Independent monitoring by the student
3. Describe the student’s skill level and level of independence in their use of amplification or hearing assistive technology devices and any actions needed (e.g., monitoring, training) for the student and staff to ensure the student’s effective use of their accommodations.
4. Consider visual access what does the student currently use and what supports are required? Refer to the student’s present level of reading and writing skills when considering written visual supports.
  - None (skip to Section III)
  - Preferential or flexible seating
  - Limit visual obstructions and ensure line of sight
  - Copies of text and work materials
  - Captioned media
  - Alternative or AT communication devices (specify)
  - Other, please describe:

5. Consider service provider accommodations. Describe the student's skill in utilizing support and any actions needed (e.g., monitoring, training) for the student and staff to ensure the student's effective use of their accommodations.
  - Note taker
  - Sign language interpreter or transliterator
  - Intervener
  - Captioning services (CART, C-Print, Typewell)
  - Other service provider:
  
6. Consider tactile access – Describe the student's skill in utilizing tactile access accommodations.
  
7. Consider safety and environmental access – Describe the site's provision of access or utilization of:
  - Videophones
  - Visual alerts and alarms
  - Tactile alerts
  - Other, please describe:
  
8. Consider communication and learning accommodations – Describe any other assistive technologies or accommodations which provide access or equitable participation for the student.

### III. CONSIDER ACADEMIC LEVEL AND READINESS TO ENGAGE IN THE CURRICULUM

1. What supports are needed to **increase** the student's proficiency in his her language and communication to acquire grade-level academic skills and concepts of the general education curriculum?
  
2. Is the student on grade-level for reading?  Yes  No  
 If no, what is the student's independent reading and fluency level?  
 What action is needed to ensure access to content at the student's independent reading and fluency level?
  
3. Is the student on grade-level for writing?  Yes  No  
 If no, what is the student's independent writing level?
  
4. Is the student able to participate in classroom activities, raise their hand, engage in lessons, etc.?
  
5. What accommodations (if any) are needed to allow the student to fully participate in reading and writing activities in the classroom?



**IV. CONSIDER OPPORTUNITIES FOR DIRECT COMMUNICATION WITH PEERS AND PROFESSIONAL PERSONNEL AND OPPORTUNITIES FOR INSTRUCTION IN THE STUDENT’S LANGUAGE AND COMMUNICATION NEEDS** (Definition of “direct communication”: Direct language, communication and instruction occurs person to person, not through an additional source [e.g., educational interpreter, captioner].)

1. Describe how the student communicates with peers and opportunities for **direct** communication with peers (hearing and other deaf or hard of hearing peers).
2. Describe how the student communicates with adults in the school environment and opportunities for **direct** communication with professional staff and other school personnel.
3. Describe opportunities for **direct** instruction; describe how the curriculum is delivered through direct instruction using the language and communication methods identified in Section I and through the use of qualified support staff.
4. If staff are not currently available at the school site or do not have the qualifications to provide direct language and communication instruction identified in Section I, describe the actions to provide qualified staff or place the student in the environment most conducive for language development and educational success.

**V. CONSIDERATIONS REQUIRING THE FULL RANGE OF NEEDS**

Title 34, Code of Federal Regulations (CFR) section 300.117, requires accessibility to all components of the educational process, including school-sponsored activities (e.g., related services, assemblies, field trips, extracurricular activities, athletics).

1. What services or accommodations are needed to allow for communication access to all educational components of the school (regular education classes, related services, etc.)?
2. What services or accommodations are needed to allow for communication access to all other components of school activities (school counselors, recess, lunch, assemblies, extracurricular activities, etc.)?