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MEMORANDUM

TO: School District Superintendents
Charter School Leaders

FROM: Adam Emerson

DATE: December 9, 2022

SUBJECT: **New State Board of Education Rule Regarding Special Magistrate for Unresolved Student Welfare Complaints at Charter Schools**

Contact Information:

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On March 28, 2022, the Governor signed [House Bill 1557 Parental Rights in Education](#) into law, protecting the rights of parents in need of additional assistance with certain disputes that are not timely resolved by the school district.

On October 19, 2022, the State Board of Education adopted [Rule 6A-6.0791, Florida Administrative Code \(F.A.C.\), Special Magistrate for Unresolved Student Welfare Complaints at Charter Schools](#). This rule is applicable to all charter schools. The purpose of Rule 6A-6.0791, F.A.C., is to support parental rights by providing charter school parents with a more expedient route to resolve certain disputes, in lieu of filing a lawsuit in court.

Each charter school must adopt procedures for a parent to notify the principal, or the principal's designee, of their concerns and the process for resolving those concerns within seven calendar days after notification by the parent. If that complaint cannot be resolved by the charter school, then the charter must fully cooperate in its local school district's resolution procedures and comply with the district's decision for resolution of the complaint.

If a parental complaint involving certain types of disputes is not resolved at the local level by a charter school principal within seven days, or subsequently, a school district within 30 days, a parent may submit a form to the Florida Department of Education requesting the appointment of a Special Magistrate. If the request is granted, a Special Magistrate would hold a hearing and provide a recommended decision to the State Board of Education on the dispute between a parent and the school district.

All costs a district incurs for reviewing and responding to a complaint lodged by a parent enrolled in a charter school under this rule is a service provided by the school district to the charter school. Contracts providing for payment of such services are limited to the district's actual costs unless mutually agreed to by the school district and the charter school.

ADAM EMERSON, EXECUTIVE DIRECTOR
OFFICE OF INDEPENDENT EDUCATION AND PARENTAL CHOICE

The types of complaints that parents may request a Special Magistrate must be based upon the provisions set forth in section (s.) 1001.42(8)(c)1.-6., Florida Statutes:

1. In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04, adopt procedures for notifying a student's parent if there is a change in the student's services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The procedures must reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent. The procedures may not prohibit parents from accessing any of their student's education and health records created, maintained, or used by the school district, as required by s. 1002.22(2).

2. A school may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being. This subparagraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined in s. 39.01.

3. Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in kindergarten through grade 3 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards.

4. Student support services training developed or provided by a school district to school district personnel must adhere to student services guidelines, standards, and frameworks established by the Department of Education.

5. At the beginning of the school year, each school shall notify parents of each health care service offered at their student's school and the option to withhold consent or decline any specific service. Parental consent to a health care service does not waive the parent's right to access his or her student's educational or health records or to be notified about a change in his or her student's services or monitoring as provided by this paragraph.

6. Before administering a student well-being questionnaire or health screening form to a student in kindergarten through grade 3, the school district must provide the questionnaire or health screening form to the parent and obtain the permission of the parent.

Obligations for charter schools under the rule include:

- Adopt procedures for a parent to seek relief from the school principal or designee;
- If the charter school cannot resolve the dispute, it must fully cooperate in the school district's resolution procedures and comply with the district's decision for resolution; and
- Designate at least one person responsible for responding to Departmental inquiries regarding a request for appointment of a Special Magistrate and notify the Department of the name and e-mail address of the individual.

Obligations for school districts under the rule include:

- Designate at least one person responsible for responding to the Department's inquiries regarding requests for a Special Magistrate;
- Within five days of receipt of notice that a parent has requested the appointment of a Special Magistrate, the school district must provide a statement addressing whether any of the grounds for dismissal of the request apply to the parent's request; and
- Within twenty days of notice that a Special Magistrate has been appointed, the school district must ensure that an agreement for payment has been reached with the Special Magistrate.

Thank you for your attention and implementation of this important process.

AE

Attachment 1: Rule language as adopted: Rule 6A-1.094125, F.A.C., Special Magistrate for Unresolved Student Welfare Complaints

Attachment 2: Form - Florida Department of Education Parental Request for Appointment of a Special Magistrate