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**MEMORANDUM**

**TO:** School District Superintendents

**FROM:** Jacob Oliva

**DATE:** September 16, 2022

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

**Contact Information:**

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**DPS: 2022-158**

On March 28, 2022, the Governor signed [House Bill 1557](#) 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 August 17, 2022, the State Board of Education adopted Rule 6A-1.094125, Florida Administrative Code (F.A.C.). This rule is applicable to all public school districts. The purpose of Rule 6A-1.094125, F.A.C., is to support parental rights by providing parents with a more expedient route to resolve certain disputes, in lieu of filing a lawsuit in court.

Each school district 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. At a minimum, the procedures must require that within 30 days after notification by the parent that the concern remains unresolved, the school district must either resolve the concern or provide a statement of the reasons for not resolving the concern.

If a parental complaint involving certain types of disputes is not resolved at the local level by a 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. The State Board of Education would either approve or reject the recommended decision within 30 days.

The types of complaints that parents may request a Special Magistrate are set forth in s. 1001.42(8)(c)1.-6., F.S.:

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

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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 district 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 district 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 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.

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Please send the name, title, phone number and email address of the identified person in your district for this purpose to [SpecialMagistrate@fldoe.org](mailto:SpecialMagistrate@fldoe.org) by September 30, 2022.

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

JO/rk

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