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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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**DPS: 2022-192**

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.

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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

**6A-6.0791 Special Magistrate for Unresolved Student Welfare Complaints at Charter Schools.**

(1) Purpose. The purpose of this rule is to provide information about the process for a parent of a student enrolled in a charter school to request appointment of a Special Magistrate for disputes involving the student's health, safety, or welfare as described in Section 1001.42(8)(c), F.S.

(2) Definitions. In this rule, the terms have the following meaning:

(a) "Days" means business days and excludes state, federal and school district holidays;

(b) "Department" means the Florida Department of Education;

(c) "Parental Request for Appointment of a Special Magistrate for Charter School Students" or "Parental Request" means the written form adopted by and incorporated into this rule.

(d) "Parent" means the definition of that term provided in Section 1000.21, F.S.;

(e) "Parties" means the parent who submitted a request for appointment of a Special Magistrate and the school district and charter school governing board;

(f) "Special Magistrate" means an administrative law judge provided by the Division of Administrative Hearings under Section 120.65(6), F.S., or a person appointed by the Commissioner of Education who is a member of the Florida Bar in good standing with a minimum of five years of administrative law experience;

(3) Parental Obligations. In order to request appointment of a Special Magistrate, a parent must:

(a) Complete the form entitled "Parental Request for Appointment of a Special Magistrate for Charter School Students;"

(b) Describe the nature of the dispute;

(c) Describe the resolution or relief sought with the charter school principal or designee appointed by the charter school governing board and subsequently, with the school district that sponsors the charter school;

(d) Describe the resolution sought from the Special Magistrate and the State Board of Education;

(e) Demonstrate that before filing for the appointment of a Special Magistrate, resolution of the dispute was sought by the parent with:

1. The principal or designee appointed by the charter school governing board to resolve parental disputes; and

2. The school district, all in accordance with the procedures adopted by the school district for resolution of the dispute;

(f) Provide and maintain accurate contact information such as an email address, telephone number and mailing address for the parent.

(4) School District Obligations. Each school district must:

(a) Develop procedures to resolve student health, safety, or welfare complaints under Section 1001.42(8)(c), F.S., for a student who is enrolled in a charter school sponsored by the district. These procedures must include the following:

1. The process for resolution when the charter school principal or designee is unable to resolve the dispute to the parent's satisfaction;

2. Providing a parent with a statement of the reasons for not resolving the dispute, when the district is unable to resolve the complaint; and

3. The time limits for a response or notice of reasons for not resolving the dispute, which must be no more than 30 days from receipt of the complaint.

(b) Designate at least one person responsible for responding to Departmental inquiries regarding a request for appointment of a Special Magistrate for charter school student complaints and notify the Department of the name and email address of the individual;

(c) Within five (5) days of receipt of notice that a parent has requested the appointment of a Special Magistrate as described in subsection (3), provide to the Department a statement addressing whether any of the grounds for dismissal as described in paragraph (7)(b) of this rule apply to the parental request for appointment of a Special Magistrate; and

(d) Expeditiously contract for payment of a Special Magistrate appointed by the Commissioner of Education and notify the Department within no more than twenty (20) days after receiving notice of the appointment of a Special Magistrate that an agreement has been reached for payment with the appointed Special Magistrate.

(5) Charter School Governing Board's Obligations. To ensure that the Special Magistrate process is available to a parent of a student enrolled in a charter school, a charter school governing board must:

(a) Adopt procedures to notify parents of the following:

1. The ability to seek relief from the school principal or designee for a dispute under Sections 1001.42(8)(c)1.-7., F.S.;

2. If the parent remains aggrieved after receiving the response from the principal or designee, the ability to seek relief from the

school district that sponsors the charter school; and

3. The time limits for a response, which must be no more than seven days from receipt of the complaint for the principal/designee and no more than 30 days from receipt of the complaint for the school district.

(b) Fully cooperate in the district's resolution procedures and comply with the district's decision for resolution of the complaint; and

(c) 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 email address of the individual.

(6) Financial Costs Related to Disputes Involving Special Magistrate Process for Charter School Students. All costs a district incurs for reviewing and responding to a complaint lodged by a parent of a student enrolled in a charter school under this rule, is a service provided by the school district to the charter school; contracts for such services are limited to the district's actual costs unless mutually agreed to by the school district and charter school, based upon the provisions of Section 1002.33(20)(b), F.S.

(7) Department of Education Obligations.

(a) Review of "Parental Request for Appointment of a Special Magistrate for Charter School Students." Upon receipt of the form entitled "Parental Request for Appointment of a Special Magistrate for Charter School Students," the Department will:

1. Review the form and provide an opportunity for the parent to provide missing or supplemental information within twenty (20) days of receipt of a Departmental notice that missing or supplemental information is needed;

2. Notify the charter and the school district of receipt of the Parental Request for Appointment of a Special Magistrate for Charter Schools; and

3. Provide written notice to the parent, charter school and school district that the request has been provided to the Commissioner of Education for consideration or provide notice of dismissal of the Parental Request.

(b) Dismissal of Parental Request for Appointment of Special Magistrate by the Department. The Department will dismiss a Parental Request under the following circumstances:

1. The parent notifies the Department that the dispute has been resolved or withdrawn;

2. The Parental Request form has not been substantially completed, after the opportunity to provide missing or supplemental information has been provided;

3. The parent has not demonstrated full and complete use of any charter school and school district procedures for resolving the dispute;

4. The matter in dispute falls under the Individuals with Disabilities Education Act, as amended, and its implementing regulations, or under Section 1003.56, F.S., and rules adopted by the Department to implement Section 1003.56, F.S., or is otherwise outside of the scope of the student welfare requirements set forth in Sections 1001.42(8)(c)1.-7., F.S.; or

5. The parent has failed to maintain accurate contact information with the Department or the Special Magistrate.

(c) Obligations Post Appointment of Special Magistrate. Upon appointment of a Special Magistrate by the Commissioner under subsection (8) of this rule, the Department will:

1. Provide the parties notice of the appointment of a Special Magistrate and advise the parties of the following:

a. The name and contact information of the Special Magistrate;

b. The time frame when the Special Magistrate is expected to provide a written recommendation to the State Board of Education; and

c. The requirement to maintain accurate contact information with the Department and the Special Magistrate;

2. Provide to the Special Magistrate the following:

a. The Parental Request and any supplemental information received by the Department upon review of the Parental Request; and

b. To allow sufficient time for review by the State Board of Education of a recommendation rendered by the Special Magistrate, the time frame(s) when a recommended decision is expected to be provided by the Special Magistrate to the parties and the State Board of Education. This timeframe may be extended by agreement of the parties.

(8) Commissioner of Education. The Commissioner of Education will review each pending completed Parental Request and decide whether to appoint a Special Magistrate utilizing the following factors:

(a) Whether there is authority and the ability to provide effective relief to the parent through the Special Magistrate process;

(b) Whether the parent is seeking or has already sought relief in court;

(c) Whether due to a change in circumstances, such as a change in a student's school or grade level or a change in procedures or

training, the dispute is moot or not ripe; and

(d) Whether grounds for dismissal of the Parental Request, as described in paragraph (7)(b) of this rule, are found to exist.

(9) Special Magistrate Procedures.

(a) Where an administrative law judge provided by the Division of Administrative Hearings is available and assigned to act as the Special Magistrate, proceedings before the Special Magistrate will be held in accordance with the rules of the Division of Administrative Hearings, except where inconsistent with this rule or Section 1001.42(8)(c), F.S.

(b) Where a Division of Administrative Hearings administrative law judge is unavailable or the Commissioner appoints the Special Magistrate, the following procedures apply:

1. The Special Magistrate shall set and notify all parties of the time and place of the hearings.

2. Any party directly involved in the proceeding may appear at the hearing with or without counsel or by other representative.

3. The parties or the Special Magistrate may call, examine, and cross-examine witnesses and enter evidence into the record.

Witnesses shall be examined under oath. Evidentiary matters before the Special Magistrate shall be governed by the Administrative Procedure Act.

4. The Special Magistrate may permit the submission of written memorandum by the parties.

(c) Following the close of the hearing, the Special Magistrate shall prepare a recommended decision, determining whether a parent has demonstrated a violation of the requirements of Section 1001.42(8)(c), F.S., by the charter school. The Special Magistrate's recommended decision shall be based upon the evidence presented and argument made before the Special Magistrate. The recommendation shall include findings of fact and recommendations for resolution of the dispute by the parties.

(d) The Special Magistrate's recommended decision is due within thirty (30) days of the date a parent request is received by the Special Magistrate from the Department. The 30-day time frame can be extended upon agreement. A party may be deemed to have agreed to an extension if unavailable for hearing at the date and time set or where a party fails to timely respond to scheduling orders issued by the Special Magistrate.

(10) The following form is incorporated by reference and may be obtained at <https://www.fldoe.org/schools/k-12-public-schools/>: Parental Request for Appointment of a Special Magistrate for Charter School Students, Form No. CSSM-1 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-14915>) (effective November 2022).

*Rulemaking Authority 1001.02(1), (2)(n), 1001.42(8)(c)7.b. FS. Law Implemented 1001.42(8)(c)7.b., 1002.33(9)(p)2. FS. History—New 11-22-22.*

**FLORIDA DEPARTMENT OF EDUCATION**  
**PARENTAL REQUEST FOR APPOINTMENT OF A SPECIAL MAGISTRATE**  
**FOR CHARTER SCHOOL STUDENTS**

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This form must be completed to request that the Commissioner of Education appoint a Special Magistrate to recommend resolution of certain disputes a parent or guardian has with their child's charter school.

**What is a Special Magistrate?** A special magistrate is a member of the Florida Bar in good standing and who has at least 5 years of experience in administrative law. A hearing before the Special Magistrate provides a parent or guardian with the opportunity to demonstrate a violation of certain rights or procedures of the charter school and where the school and the school district are given the opportunity to support the charter school's action. After a hearing, the Special Magistrate will provide a written decision that operates as a recommendation for consideration by the State Board of Education.

A hearing before a Special Magistrate is an alternative to filing an action in court for relief.

**Who can request the appointment of a Special Magistrate?** The request can only be made by a parent or guardian of a student at the charter school that is the subject of the dispute.

**When can a request be made?** A request can be made only after a parent or guardian has sought to resolve the dispute with the charter school and school district based upon the procedures adopted by the charter school and the school district where the student is enrolled.

Each charter school must adopt procedures for a parent or guardian to seek resolution of certain disputes with a school principal or his designee and then, if the dispute remains unresolved, the school district must provide an additional method to attempt to resolve the dispute at the district level. If the dispute is not resolved, a school district must provide a parent or guardian a statement of the reasons for not resolving the dispute. These procedures will vary from school to school and from district to district; however, the procedures must be carefully followed before requesting the appointment of a Special Magistrate.

**What types of disputes can be considered by a Special Magistrate?** A Special Magistrate is available for some, but not all kinds of disputes. The types of disputes a Special Magistrate can consider are listed below on page 2 of this form under "Classify the Nature of Your Dispute."

- A Special Magistrate is not available to resolve disputes alleging a violation of the educational rights of a student with a disability under the Individuals with Disabilities Education Act (IDEA 2004) and corresponding state requirements. Please see Rule 6A-6.03311, Fla. Admin. Code, for the process to resolve these types of disputes.

A special magistrate will not be appointed for a number of other reasons, such as resolution of the dispute, a change in circumstances, the failure to complete charter school and school district procedures for resolution, or the inability to provide the relief sought.

**How will notice be provided whether a special magistrate has been appointed?** The Department will provide a parent or guardian and the school district written notice once a decision has been made.

Name of Parent or Guardian: \_\_\_\_\_ Name of Student: \_\_\_\_\_

Student ID Number: \_\_\_\_\_ Date of Incident: \_\_\_\_\_ Grade Level When Dispute Occurred: \_\_\_\_\_

School District: \_\_\_\_\_ School: \_\_\_\_\_

Parent or Guardian Contact Information: \_\_\_\_\_  
(Email Address)

Mailing Address: \_\_\_\_\_  
(Street)

### CLASSIFY THE NATURE OF YOUR DISPUTE

Check which of the following school district requirements your dispute concerns:

In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04, F.S., the school district must 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 the student's 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 educational and health records created, maintained, or used by the school district, as required by s. 1001.22(2), F.S.

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 requirement does not prohibit a school district from adopting procedures that permit school personnel to withhold information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect as defined in s. 39.01, F.S.

**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.

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.

At the beginning of the school year, the school district must notify parents of each **healthcare 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 health records or to be notified about a change in his or her student's services or monitoring.

Before administering a **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.



### ACKNOWLEDGEMENT

I understand that the hearing before the Special Magistrate and the State Board of Education is open to the public and that records relevant to the dispute may be disclosed to the public.

\_\_\_\_\_  
Signature of Parent or Guardian

\_\_\_\_\_  
Date

### HOW TO SUBMIT THIS FORM TO THE DEPARTMENT OF EDUCATION:

The completed form along with required documentation must be sent via email to the following address:

[SpecialMagistrate@fldoe.org](mailto:SpecialMagistrate@fldoe.org)

or by U.S. mail to:

Florida Department of Education  
325 West Gaines Street, Suite 224  
Tallahassee, FL 32399