

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HEWS 15-02 Postsecondary Education Options for Students with Disabilities

SPONSOR(S): Higher Education & Workforce Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education & Workforce Subcommittee		Banner	Sherry

SUMMARY ANALYSIS

The bill creates the "Florida Postsecondary Comprehensive Transition Program Act" to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities.

The bill establishes a process for postsecondary institutions in Florida to voluntarily seek approval of a Florida Postsecondary Comprehensive Transition Program (FPCTP) to provide postsecondary education options for students with intellectual disabilities.

The bill creates the Florida Center for Students with Unique Abilities (center) to serve as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families. The center will serve a broader group of students with disabilities and their parents. Duties of the center include assisting with the implementation of the FPCTPs, including but not limited to, institution and student eligibility requirements. In addition, the center will provide statewide dissemination of information regarding education programs, services, resources, technical assistance, mentoring and job placement opportunities for students with disabilities and their families. The fiscal impact to create the center is indeterminate.

The bill also restores the Special Diploma as a high school graduation option for students with disabilities by abrogating the repeal of s. 1003.438, F.S. (scheduled to take effect July 1, 2015).

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Law

The Higher Education Act of 1965, amended and extended by the Higher Education Opportunity Act of 2008, includes new provisions to support quality higher education programs for students with disabilities. The federal law establishes comprehensive transition and postsecondary (CTP) programs, transition programs for students with intellectual disabilities (TPSID) grants, and national coordination of CTP programs for students with intellectual disabilities.¹

A student with an intellectual disability is defined as a student “with a cognitive impairment, characterized by significant limitations in intellectual and cognitive functioning and adaptive behavior who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.”²

Federal law also defines a comprehensive transition and postsecondary (CTP) program as a degree, certificate, or nondegree program that meets each of the following criteria:³

- Is offered by an institution of higher education (IHE);
- Is delivered to students physically attending the IHE;⁴
- Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment;
- Includes an advising and curriculum structure;
- Requires students with intellectual disabilities to participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities with nondisabled peers:
 - Regular enrollment in credit-bearing courses offered by the institution.
 - Auditing or participating in courses offered by the institution for which the student does not receive regular academic credit.
 - Participation in noncredit-bearing, nondegree courses.
 - Participation in internships or work-based training; and
- Requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible.

Students attending CTP programs may qualify to receive federal financial aid in the form of a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant and/or Federal Work-Study⁵ provided the student:

- Is enrolled or accepted for enrollment in a CTP program for students with intellectual disabilities at an IHE that participates in the federal student aid programs;
- Maintains satisfactory academic progress, as determined by the institution;⁶ and
- Meets the basic federal student aid eligibility requirements, except that the student is not required to have a high school diploma or General Educational Development (GED) and is not required to pursue a degree or certification.

¹ 20 U.S.C. s. 1140 et. Seq.; Pub. L. No. 110-315, 122 Stat.3361 (Aug. 14, 2008).

² 20 U.S.C. s. 1140(2).

³ 20 U.S.C. s. 1140(1); 34 C.F.R. s. 231(a).

⁴ 34 C.F.R. s. 668.231(a)(2).

⁵ Federal Student Aid, U.S. Department of Education, *Students with Intellectual Disabilities May Be Able to Get Certain Types of Federal Student Aid*, <https://studentaid.ed.gov/eligibility/intellectual-disabilities> (last visited Feb. 16, 2015); see also 34 C.F.R. ss.668.233 and 68.32.

⁶ An institution is responsible for publishing the institution’s standards for students enrolled in its comprehensive transition and postsecondary (CTP) program. 34 C.F.R. s. 668.233(a)(3).

The student must provide documentation establishing that the student has an intellectual disability.⁷

An institution that offers a CTP program must apply to the Secretary of the United States Department of Education (USDOE) to be determined eligible for federal student aid programs. The application must include:⁸

- A detailed description of the program;
- The institution's policy for determining the achievement of satisfactory academic progress;
- The length of the program (credit hours, semesters, clock hours, etc.);
- A detailed description of the educational credential or identified outcome of students enrolled in the program; and
- A copy of the letter or notice sent to the institution's accrediting agency indicating approval of the CTP program.⁹

According to data provided by the Office of Program Policy Analysis and Government Accountability (OPPAGA), this approval process takes between 3 and 6 months to complete, depending on the quality of the application and associated materials.¹⁰

Transition Programs for Students with Intellectual Disabilities (TPSID) Grants are provided by USDOE as five-year cooperative agreements to institutions of higher education or consortia of institutions of higher education to enable these institutions to create or expand high quality CTP programs for students with intellectual disabilities.¹¹ Grants totaling approximately \$10.5 million were first awarded in Fiscal Year 2010 to 27 two- and four-year institutions across 23 states, including the University of South Florida – St. Pete, Florida's sole awardee.¹² Since initially awarding TPSID grants in 2010, funds have only been awarded for non-competing continuation grants.¹³

An institution or consortium that receives a TPSID grant shall use the funds to establish a model CTP program that:¹⁴

- Serves students with intellectual disabilities;
- Provides supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;
- Focuses on academic enrichment, socialization, independent living skills, and integrated work experiences and career skills that lead to gainful employment;
- Integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;
- Participates with the coordinating center in the evaluation of the model program;
- Partners with one or more local educational agencies (LEA's) to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA);
- Plans for sustainability of the model program after the end of the grant period; and
- Creates and offers a meaningful credential for students with intellectual disabilities upon completion of the program.

⁷ 34 C.F.R. s. 668.233(c).

⁸ 34 C.F.R. s. 668.232.

⁹ Think College, as the National Coordinating Center, is working with the United States Congress regarding a specialized accreditation for programs for students with disabilities. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf, at 7 of 29.

¹⁰ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf, at 18 of 85.

¹¹ U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/index.html> (last visited Feb. 16, 2015).

¹² U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/awards.html> (last visited Feb. 16, 2015).

¹³ *Id.*

¹⁴ 20 U.S.C. 1140g(d).

The Higher Education Opportunity Act of 2008 established a National Center for Information and Technical Support for Postsecondary Students with Disabilities (National Center).¹⁵ The National Center is responsible for:¹⁶

- Providing assistance to students and families and institutions of higher education;
- Building, maintaining, and updating a database of disability support services information;
- Working with organizations and individuals with proven expertise to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education; and
- Reporting to the United State Secretary of Education an analysis of the condition of postsecondary success for students with disabilities.

The act also establishes a national coordinating center for institutions of higher education that offer inclusive CTP programs for students with intellectual disabilities, including those participating in TPSID grants.¹⁷ Think College, a project of the Institute for Community Inclusion at the University of Massachusetts – Boston, was selected in October 2010, to provide support, coordination, training and evaluation services to the TPSID grant recipients.¹⁸

State Law

Florida law provides for students with disabilities to be eligible for reasonable substitution of any requirement for admission to postsecondary educational institutions if the student can provide documentation that the failure to meet the requirement is related to the disability.¹⁹ While Florida law allows for “reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division”, these substitutions may not constitute a fundamental alteration in the nature of the program.²⁰ Additionally, to be eligible for state student financial aid awards, students must meet specified eligibility criteria, which includes minimum number of credit hours per term or the equivalent.²¹

There are currently 17 non-traditional postsecondary program options available across Florida for students with documented developmental disabilities²² that provide activities such as auditing postsecondary courses, enrolling in vocational courses, participating in campus life, and job placement programs.²³ Of these programs:

- Nine are available to students who are no longer enrolled in district ESE programs. In the 2013-14 year, 222 students were enrolled and 125 graduated. Of these 125 graduates, 41 students, or 33 percent, were employed and another 6 students, or 8 percent, received industry certification, went on to other postsecondary options or pursued a GED. The cost to the student for these programs range from \$0 to as high as \$10,000.²⁴
- Eight are available to students through age 21 who are still receiving district ESE services. In the 2013-14 year, 85 students were enrolled and 14 graduated. Of these 14 graduates, 10

¹⁵ 20 U.S.C. s. 1140q(a).

¹⁶ 20 U.S.C. s. 1140q(a)(4).

¹⁷ 20 U.S.C. s. 1140q(b) and i(b).

¹⁸ Think College! *National Coordinating Center and College Options for People with Intellectual Disabilities*, <http://www.thinkcollege.net> (last visited Feb. 16, 2015).

¹⁹ s. 1007.264, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²⁰ s. 1007.265, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²¹ s. 1009.40, F.S.

²² Developmental disability means “ a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” Section 393.063(9), F.S.

²³ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf at 15 of 29.

²⁴ Program costs reflect base tuition only and does not include the cost of a residential option which ranges from \$11,000-14,000 per year. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flseate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 21 of 85.

students, or 67 percent, were employed and another 2 students, or 13 percent, were enrolled in postsecondary education.²⁵ Since these students still receive district ESE services, there is no program cost to the student.

None of the 17 programs offered award college credit or a college degree, but some allow students to complete courses that can be applied toward a workforce credential.²⁶

Special Diploma Option

During the 2014 Legislative Session, Senate Bill 850²⁷ repealed section 1003.438, F.S. which eliminated the special diploma as a high school graduation option for students with disabilities, effective July 1, 2015.

Section 1003.438, F.S. does not limit or restrict the right of a student with a disability solely to a special diploma or special certificate of completion. Furthermore, section 1003.5716(2)(a), F.S. requires that the first individual education plan (IEP) in effect for a 16-year-old student must, if the parent deems appropriate, include a statement of intent to pursue a standard high school diploma and a Scholar or Merit designation. This statement of intent may also be included in the IEP for a student who is under 16, if the parent or IEP team deems it appropriate.

The repeal will result in students with disabilities who do not meet the standard diploma requirements being granted a certificate of completion. This may be problematic as some employers require either a standard or special high school diploma for employment. The certificate of completion is not considered a high school diploma and, therefore, some students who would have previously earned a special diploma may no longer be eligible for employment if the repeal takes effect.

The chart on the following page outlines the specific requirements for the standard diploma, special diploma (prior to the 2014 repeal) and the certificate of completion:

Graduation Requirements for the Standard Diploma 24-Credit and Certificate of Completion Section 1002.4282, Florida Statutes	Special Diploma Prior to the 2014 Legislative Session Option 1 and 2
4 Credits English Language Arts (ELA) ELA I, II, III, IV 4 Credits Mathematics One of which must be Algebra I and one of which must be Geometry - Students must pass the Algebra I end-of-course (EOC) or a comparative score on the Postsecondary Education Readiness Test (P.E.R.T.) - Students must participate in the Geometry EOC results	A student with a disability who meets all of the requirements of a special diploma option one or option two prescribed by the district school board in their board approved student progression plan and the minimum requirements prescribed by the Commissioner of Education as described in rule 6A-1.00961, F.A.C. Option 1

²⁵ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flstate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 22 of 85.

²⁶ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf at 13 of 29.

²⁷ Chapter 2014-184, Laws of Florida

constitute 30 percent of the final course grade - Students must participate in the Algebra II EOC results constitute 30 percent of the final course grade (if enrolled)	<p>Demonstration of proficiency at the independent, supported, or participatory level of each standards for Special Diploma standards, as determined through the IEP process, and the completion of the minimum number of course credits for a special diploma as prescribed by the school board.</p> <p>Or</p> <p>For certain students with disabilities mastery of the Standards through successful completion of courses that meet graduation requirements for a standard diploma.</p> <p>Option 2</p> <p>Allowed for students with disabilities to demonstrate mastery of the standards through employment and community competencies.</p> <p>There were three requirements for this pathway:</p> <ul style="list-style-type: none"> • The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies. • The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester and paid the minimum wage. • The student has mastered the employment and community competencies specified in the training plan.
3 Credits Science One of which must be Biology I, two of which must have a laboratory component - Students must participate in the Biology I EOC results constitute 30 percent of the final course grade	
3 Credits Social Studies - Students must participate in the U.S. History EOC results constitute 30 percent of the final course grade	
1 Credit Fine and Performing Arts, Speech and Debate or Practical Arts	
1 Credit Physical Education to include the integration of health	
8 Credits Elective	
1 Online Course	
<p>Certificate of Completion</p> <p>A student who earns the required 24 credits, or the required 18 credits under s. 1002.3105(5), F.S. but fails to pass the assessments required under s. 1008.22(3), F.S. or achieve a 2.0 GPA shall be awarded a certificate of completion.</p>	

Effect of Proposed Changes

The bill creates the “Florida Postsecondary Comprehensive Transition Program Act” to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities. Specifically, the bill:

- Establishes a process by which postsecondary institutions may voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- Creates the Florida Center for Students with Unique Abilities (center) as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families.

Florida Postsecondary Comprehensive Transition Program (FPCTP)

FPCTP's are established for students with intellectual disabilities. The bill aligns the state approval requirements with federal requirements for comprehensive transition and postsecondary (CTP) programs. In addition to the federal requirements, an eligible institution²⁸ must submit the following to the center no later than the academic year immediately following the academic year in which federal approval was granted:

1. An application that includes:
 - Identification of a credential associated with the proposed program that is awarded to a student with an intellectual disability after the student completes the FPCTP;
 - Program length and design that includes, at a minimum, inclusive and experiential education practices related to curricular, assessment, and advising structure and internship and employment opportunities and if a college credit-bearing degree program, at the same rigor and effectiveness of a comparable program offered by the institution;
 - Plan for students with intellectual disabilities to be integrated socially and academically with nondisabled students;

²⁸ The bill defines eligible institution as a state university; a Florida College System (FCS) institution; a technical center; or an independent college or university that is located and chartered in Florida, is not for profit, is accredited by the Southern Association of Colleges and Schools (SACS), and is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

- Plan for partnerships with businesses to promote experiential training and employment opportunities for students with intellectual disabilities;
 - Identification of performance metrics, as identified by the statewide coordinating center, to measure satisfactory progress of students and performance of the program;
 - A 5-year plan regarding enrollment and operational expectation; and
 - Any other requirement identified by the statewide coordinating center.
2. Documented evidence of a federally approved program that is determined to be eligible for federal student financial aid programs and is currently offered at the institution, documented evidence of the submission of an application for such federal approval, or documentation demonstrating the intent to submit an application within the subsequent academic year.

An institution submitting a renewal application must do so within 3 years following the year during which initial approval was granted.

Currently, no Florida programs are eligible to provide federal financial aid, however Florida Panhandle Technical College has applied and the University of North Florida is working on an application. Students are, however, eligible to receive other financial assistance such as Vocational Rehabilitation funding, institutional funding, local grants or other social service agencies.²⁹

Additional responsibilities of the institutions include the submission of an annual report by August 1st of each year. This report shall address, at a minimum, the program's efforts to recruit and retain students; enrollment, retention and completion data; transition success of completers as measured by employment rates and salary levels at 1 and 5 years after completion; and any other performance indicators identified by the center.

To be eligible to enroll in a FPCTP program, a student must meet the definition of a "student with an intellectual disability" as defined in 20 U.S.C. s. 1140(2), physically attend the eligible institution, and submit to the institution documentation regarding his or her intellectual disability.

The Florida Center for Students with Unique Abilities

This bill creates the Florida Center for Students with Unique Abilities (center) at the University of Central Florida. The duties of the center include, but are not limited to:

- Disseminating information regarding education programs, services and resources available at eligible institutions; support, accommodations, technical assistance or training provided by eligible institutions, the advisory council or regional autism centers; and mentoring, networking and employment opportunities;
- Coordinating, facilitating and overseeing statewide implementation including creating the application and deadlines for the submission, review and approval of applications;
- Consulting and collaborating with the National Center and the Coordination Center regarding guidelines for effective implementation of the programs which align with federal requirements and standards, quality indicators and benchmarks;
- Consulting and collaborating with the Higher Education Coordinating Council to identify meaningful credentials and engage businesses and stakeholders to promote experiential training and employment opportunities to students with intellectual disabilities;
- Providing technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors and staff at eligible institutions;
- Administering the scholarship program; and
- Planning, advising and evaluating approved programs and student performance.

The director of the center shall oversee the approval of CTP programs and review all applications for both initial and renewal program proposals submitted by an institution. Within 30 days of receipt of the application, the director shall make a recommendation regarding approval of state university programs to the State University System Chancellor and all other programs to the Commissioner of Education or give written notice to the applicant regarding application deficiencies. In the event of notice of

²⁹ Office of Program Policy Analysis and Government Accountability, OPPAGA Review of Postsecondary Options for Students with Developmental Disabilities, at 19 of 142 (February 2015).

application deficiencies, the applicant has 15 days to correct the application and submit a revised application, at such time the director has 30 days from the time of receipt to make a recommendation. The State University System Chancellor or Commissioner of Education, as appropriate, has 15 days after receipt of the recommendation to approve or disapprove the recommendation. If no action is taken, the program will be considered approved.

The center, in collaboration with the Board of Governors and the State Board of Education, shall identify indicators for satisfactory academic progress and performance of FPCTP programs.

The center shall report to the Governor, President of the Senate, Speaker of the House of Representatives, Chancellor of the State University System and Commissioner of Education, by October 1 of each year, the following:

- Status of the statewide coordination and implementation of FPCTPs, including the number of applications approved and disapproved and reasons for each disapproval or no action taken by the Chancellor or Commissioner;
- Indicators identified and performance of each eligible institution;
- Projected number of students with intellectual disabilities eligible to enroll within the next academic year; and
- Education programs and services for students with intellectual disabilities available at an eligible institution.

Beginning in the 2015-16 fiscal year, the center, in collaboration with the Board of Governors, State Board of Education, Higher Education Coordinating Council and other stakeholders, shall submit to the Governor, President of the Senate, and Speaker of the House of Representative, statutory or budget recommendations for improving the implementation and delivery of FPCTPs by December 1 of each year.

Special Diploma

The bill restores the special diploma as a high school graduation option for students with disabilities by abrogating the repeal of s. 1003.438, F.S. (scheduled to take effect July 1, 2015).

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.6501, F.S., establishing the Florida Postsecondary Comprehensive Transition Program and the Florida Center for Students with Unique Abilities.

Section 2. Abrogates the repeal of s. 1003.438, F.S. regarding the special diploma option for students with disabilities.

Section 3. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill establishes the Florida Center for Students with Unique Abilities at the University of Central Florida beginning in the 2015-16 fiscal year. The bill requires the center, in collaboration with other stakeholders, to make a budget recommendation by December 1st of each year. It is unknown what fiscal impact there will be on the University of Central Florida to initially establish this center, hire staff and become operational.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In 2013-14, 222 students with disabilities enrolled in non-traditional postsecondary education programs across the state. The cost of base tuition for these programs range from \$0 to as high as \$10,000 with residential options costing approximately \$11,000-14,000 per student.

The addition of the Florida Comprehensive Transition Program and the Florida Center for Students with Unique Abilities has the potential to positively impact students with intellectual and other disabilities across the state by increasing living, inclusive and experiential postsecondary education, and employment opportunities likely resulting in the ability for these individuals to obtain gainful employment and earn higher wages.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill requires the Board of Governors and the State Board of Education to consult with the center to expeditiously adopt regulations and rules, as applicable, to allow the center to perform its responsibilities beginning in the 2015-16 fiscal year.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES