

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB KTS 15-03 School Administration

**SPONSOR(S):** K-12 Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee		Brink	Fudge

### SUMMARY ANALYSIS

The K-12 Subcommittee held four meetings to discuss efforts to increase academic outcomes for students. The discussions included the respective roles of district school boards, superintendents, and school principals. During these discussions educational leaders identified various factors that affect student outcomes such as attendance, discipline and academic intervention for students at risk of dropping out. A consistent theme from these discussions was the important role of a safe and supporting learning environment, sometimes referred to as school climate. Consistent with the testimony by educational experts and leaders before the subcommittee, the bill:

- Updates and streamlines provisions relating to compulsory attendance and enforcement for both public and private schools by:
  - Requiring districts to work with parents to find the cause of nonattendance.
  - Providing for consistent use of terms that describe students who are chronically absent.
  - Requiring districts to adopt a policy to provide early intervention for at risk students based upon prior attendance data.
  - Requiring districts to exhaust their responsibilities for addressing nonattendance or nonenrollment before the superintendent files a truancy petition.
- Revises requirements related to early warning systems (EWS) for middle schools by:
  - Clarifying that a school-based team must monitor EWS data and meet to discuss interventions only if an identified student is not already receiving services from an intervention program.
  - Requiring middle schools to evaluate their instructional practice professional development.
- Helps districts foster safe and supporting learning environments by:
  - Codifying the Safe Schools allocation and authorizing the State Board to withhold distribution of the funds to districts that do not comply with incident and bullying reporting requirements.
  - Requiring the Department of Education to periodically review the collection and classification of school incidents with stakeholders to increase the accuracy and transparency of school environment and safety incident reporting.
  - Requiring periodic review and consistent implementation of anti-bullying and authorizing discipline of teachers and administrators who knowingly do not report incidents.
  - Providing for professional development on suicide prevention.
  - Requiring DOE to notify districts of certain requirements related to protected school speech.
- Promotes transparency and strengthens ethical requirements for local school officials by:
  - Revising outdated terminology to make it clear that school boards must adopt standards of ethical conduct for administrative personnel and school officers.
  - Prohibiting superintendents from appointing or employing a relative to a position under his or her direct supervision.
  - Authorizing district school boards to withhold unpaid fines owed to the Commission on Ethics.
  - Providing faster access to school records for parents and students.
  - Allowing parents of students in a class with an out-of-field teacher to request placement in a class with an in-field teacher.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill provides an effective date of July 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb03.KTS

DATE: 3/2/2015

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Attendance, Dropout Prevention, and Early Warning Systems**

##### Present Situation

###### *Attendance*

In Florida, children 6 to 16 years of age must regularly attend school.<sup>1,2</sup> Upon attaining 16 years of age, a student is not subject to compulsory school attendance if he or she files with the district school board a formal declaration of intent to terminate school enrollment, which must be signed by the student's parent.<sup>3</sup> A student terminating school enrollment must complete an exit interview and survey prescribed by the Department of Education and explain the reasons for terminating enrollment.<sup>4</sup>

In addition to attendance in public school, compulsory school attendance may be achieved through regular attendance in a private school; a parochial, religious, or denominational school; a home education program; or a private tutoring program.<sup>5</sup>

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.<sup>6</sup> The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.<sup>7</sup> If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.<sup>8</sup>

State law and state board rule also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays, or because religious tenets forbid secular activity during the school day.<sup>9</sup> School districts must implement the following steps to enforce regular attendance:

*Contact:* Each time a student has an unexcused absence or absence for which the reason is unknown, the school principal or his or her designee must contact the student's parent to determine the reason for the absence. If the reason for the absence is determined to fall within the district's policy for excused absences, the school must allow the student to make up assigned work. The student may not be penalized unless such work is not made up within a reasonable time.<sup>10</sup>

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<sup>1</sup> Sections 1002.20(2)(a) and 1003.21(1)(a)1., F.S. (a child who is 6 years of age, or who will be 6 years old by February 1 of the school year, or older is subject to compulsory school attendance).

<sup>2</sup> Although not required to attend public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs. Similarly, children younger than 3 years of age with disabilities may be eligible for special programs and services. Section 1003.21(1)(e), F.S.

<sup>3</sup> Section 1003.21(1)(c), F.S. A student who is 18 years of age is not required to obtain parental consent when terminating school enrollment. *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Sections 1002.20(2)(b) and 1003.01(13), F.S.

<sup>6</sup> Section 1003.24, F.S. (flush-left provisions at end of section).

<sup>7</sup> Section 1003.26, F.S.

<sup>8</sup> Section 1003.24(4), F.S.

<sup>9</sup> Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

<sup>10</sup> Section 1003.26(1)(a), F.S.

*Refer:* If a student exhibits a "pattern of nonattendance,"<sup>11</sup> his or her teacher must report the behavior to the school principal. Unless there is clear evidence that the absences are not a pattern of nonattendance, the principal must refer the case to the school's child study team to determine whether early patterns of truancy are developing.<sup>12</sup> If a child study team finds a pattern of truancy developing, the principal must notify the district superintendent and the district contact for home education programs.<sup>13</sup>

The child study team must meet with the student's parent to identify potential remedies and, if that meeting does not resolve the problem, the team must implement:

- Frequent attempts at communication between the teacher and the family;
- Evaluation for alternative education programs; and
- Attendance contracts.<sup>14</sup>

The child study team may also implement other interventions, including referral to other agencies for family services or recommendations for filing a truancy petition,<sup>15</sup> and must report the case to the district superintendent only after all reasonable intervention efforts have been exhausted.<sup>16</sup>

Florida law holds parents responsible for their student's regular school attendance and for participating in the efforts of a child study team.<sup>17</sup> A parent who knowingly refuses or fails to do either of the aforementioned requirements may be criminally prosecuted for a second degree misdemeanor, which is punishable by imprisonment for up to 60 days.<sup>18</sup> In addition to imprisonment, the court may require the parent to participate in an approved parent training class, attend school with the student unless this would cause undue hardship, perform community service hours at the school, or participate in counseling or other services.<sup>19,20</sup>

If a student is found by the court to be a habitual truant,<sup>21</sup> the court must order him or her to make up all school work missed and may order him or her to pay a civil penalty of up to \$2 for each day of school missed; perform up to 25 community service hours at the school; or participate in counseling or other services, as appropriate.<sup>22</sup> For a second or subsequent finding of habitual truancy, the court must order the student to make up all school work missed and may order the him or her to pay a civil penalty of up to \$5 for each day of school missed; perform up to 50 community service hours at the school; or participate in counseling or other services, as appropriate.<sup>23</sup>

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<sup>11</sup> If a student has at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within 90 calendar days, the student's primary teacher must report to the school principal that the student may be exhibiting a "pattern of nonattendance." Section 1003.26(1)(b), F.S.

<sup>12</sup> Section 1003.26(1)(b), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 1003.26(1)(c), F.S.

<sup>15</sup> "Truancy petition" means a petition filed by the superintendent of schools alleging that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, or has more than 15 unexcused absences in a 90-calendar-day period. A truancy petition is filed and processed under s. 984.151, F.S. Section 984.03(55), F.S.

<sup>16</sup> Section 1003.26(1), F.S.

<sup>17</sup> Section 1003.24, F.S.

<sup>18</sup> Sections 1003.24, 1003.26(1)(e) and (f), and 1003.27(2) and (7)(a), F.S.

<sup>19</sup> Section 1003.27(7)(a)3., F.S.

<sup>20</sup> A parent is not responsible for a child's nonattendance if the absence is: authorized by the head of the school; without the parent's knowledge or consent; due to the parent's financial inability to provide necessary clothing for the child; or due to the child's sickness, injury, or other insurmountable condition. Section 1003.27(7)(d)1., F.S.

<sup>21</sup> "Habitual truant" is a legal status determined by the court upon the filing of a petition by the school superintendent. In order for the court to declare a student habitually truant, the court must find that the student is subject to compulsory school attendance; the student has had 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent; and a child study team has conducted intervention activities and attempted unsuccessfully to remediate the student's truant behavior. Section 1003.01(8), F.S.

<sup>22</sup> Section 1003.27(7)(d)1., F.S.

<sup>23</sup> Section 1003.27(7)(d)2., F.S.

## *Dropout Prevention and Academic Intervention*

Each district school board may establish dropout prevention and academic intervention programs at the elementary, middle, or high school level.<sup>24</sup> These programs must use instructional teaching methods appropriate to the specific needs of each student participating in the program.<sup>25</sup> Any school that establishes a dropout prevention and academic intervention program must reflect the program in its school improvement plan.<sup>26</sup>

Dropout prevention and academic intervention programs may differ from traditional programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and must employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students.<sup>27</sup>

Eligibility for participation in a dropout prevention and academic intervention program is limited to students in grades 1 through 12.<sup>28</sup> Such students are eligible for dropout prevention and academic programs if they are academically unsuccessful, exhibit a pattern of excessive absenteeism or have been identified as a habitual truant, or have a history of disruptive behavior in school or have committed an offense that warrant out-of-school suspension or expulsion from school.<sup>29</sup> Student participation in a dropout prevention and academic intervention program is voluntary.<sup>30</sup>

School districts must report eligible students in the appropriate basic cost factor in the Florida Education Finance Program (FEFP), and the strategies and supports provided to eligible students are funded through the General Appropriations Act.<sup>31</sup> Such strategies and supports may include, but are not limited to, those services identified on a student's academic intervention plan.<sup>32</sup> Funding for these programs is paid from the Supplemental Academic Instruction (SAI) Categorical Fund and are in addition to the funds appropriated on the basis of FTE student membership in the FEFP.<sup>33</sup>

District school boards that receive state funding for dropout prevention and academic intervention must submit an annual report to DOE documenting the extent of the district's success in using dropout prevention and academic intervention programs to improve the district's graduation rate, dropout rate, attendance rate, and retention/promotion rate.<sup>34</sup> In addition, school boards that provide a dropout prevention and academic intervention program must maintain for each participating student records documenting the student's eligibility, the length of the student's participation, the type of program to which the student was assigned or type of academic intervention services provided, and an evaluation of the student's academic and behavioral performance while in the program.<sup>35</sup>

Prior to a student's placement in a dropout prevention and academic intervention program, the school principal must provide written notice to the student's parent.<sup>36</sup> The student's parent must return acknowledgement of the written notice within 3 days of receipt. The notice must inform the parent that he or she is entitled to administrative review, under ch. 120, F.S., of any action by school personnel relating to the student's placement.<sup>37</sup>

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<sup>24</sup> Section 1003.53(2)(a), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 1003.53(2)(b), F.S.

<sup>27</sup> Section 1003.53(1)(a), F.S.

<sup>28</sup> Section 1003.53(1)(b), F.S.

<sup>29</sup> Section 1003.53(1)(c), F.S. Under certain circumstances, school districts may assign students in grades 6 through 10, who are habitually truant or who have been disruptive or violent, to a second chance school. *See s. 1003.53(1)(d), F.S.*

<sup>30</sup> Section 1003.53(1)(a), F.S.

<sup>31</sup> Section 1003.53(1)(b), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Section 1011.62(1)(f)2., F.S.

<sup>34</sup> Section 1003.53(3), F.S.

<sup>35</sup> Section 1003.53(5), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

District school boards must establish procedures to ensure that teachers assigned to dropout prevention and academic intervention programs possess the affective, pedagogical, and content-related skills necessary to meet the needs of students placed in the program.<sup>38</sup>

### *High School Equivalency Diplomas*

Florida law requires the state board to adopt rules to set standards and provide for comprehensive examinations for high school equivalency diplomas.<sup>39</sup> DOE may award high school equivalency diplomas to candidates who meet the standards, and each district school board must administer the high school equivalency diploma examinations and subject area examinations to all candidates.<sup>40</sup>

Currently, a candidate who takes the General Educational Development (GED) exam and attains a minimum score in the Language Arts, Mathematical Reasoning, Science, and Social Studies GED subtests is awarded a State of Florida High School Diploma.<sup>41</sup> In addition, a performance-based exit option, or “GED exit option,” is available for students who are enrolled in high school courses but are not on track to graduate with their kindergarten cohort because they are overage, undercredit, or have a low grade point average (GPA).<sup>42</sup> Such students may earn the Performance-Based Exit Option diploma by passing “required sections of the FCAT,” passing the GED tests, continuing enrollment and attendance in high school courses that meet graduation requirements, and completing additional requirements established by the school district.<sup>43</sup>

The K-12 Subcommittee received testimony from DOE staff that the performance-based exit option, using GED test scores, is an effective method of stemming student dropout rates.<sup>44</sup> Currently, absent extraordinary circumstances, students may not sit for the GED exam unless they are 18 years old.<sup>45</sup>

### *Early Warning Systems*

Florida law requires each school that includes any of grades 6, 7, or 8 to implement an early warning system to identify students who are at risk of not graduating from high school. Early warning systems are used to monitor middle grades students using attendance, behavior, and academic performance indicators shown by research to be reliable indicators of students at risk of dropping out.<sup>46</sup> Once a student is identified as being off track, research-based intervention techniques are initiated to help the student get back on track to graduate on time.<sup>47</sup>

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<sup>38</sup> Section 1003.53(4), F.S.

<sup>39</sup> Section 1003.435(1), F.S.

<sup>40</sup> Section 1003.435(2) and (3), F.S.

<sup>41</sup> Rules 6A-6.0201(1), F.A.C.

<sup>42</sup> See Rule 6A-6.0212, F.A.C.

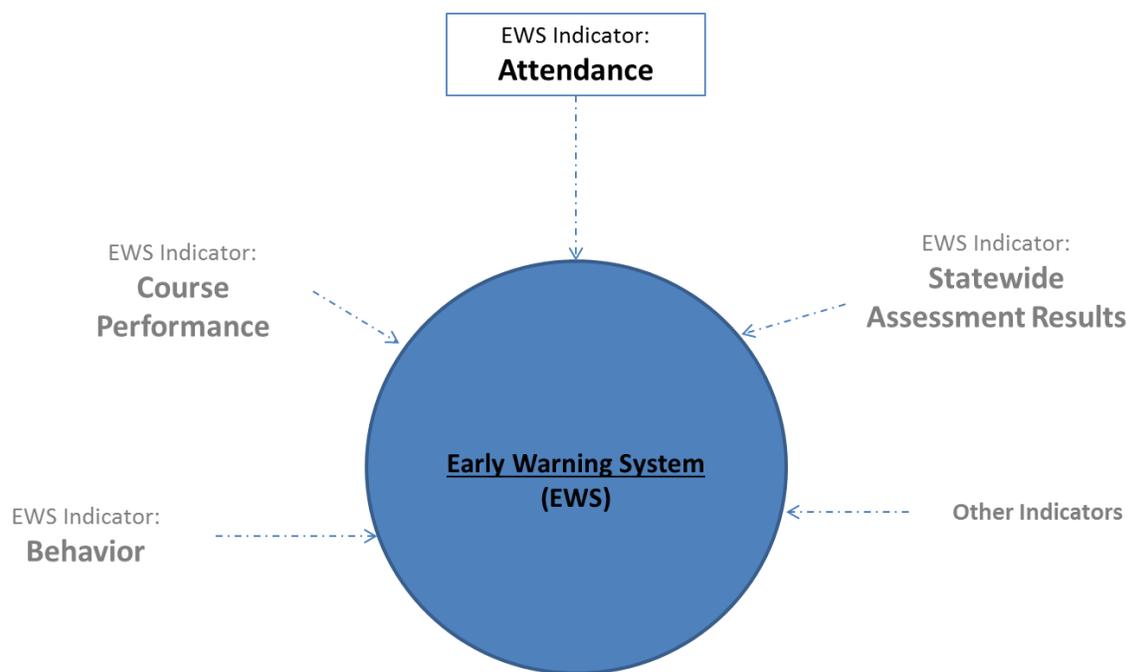
<sup>43</sup> Rule 6A-6.0212(4)(a), F.S. Students earning the performance-based diploma are not required to meet GPA requirements.

<sup>44</sup> Florida Department of Education, *Attendance, Academic Intervention, and Dropout Prevention: hearing before the House Education K-12 Subcommittee* (Jan. 20, 2015).

<sup>45</sup> Section 1003.435(4), F.S. In extraordinary circumstances, a candidate may take the exam after reaching the age of 16. *Id.*

<sup>46</sup> Section 1001.42(18)(b), F.S.

<sup>47</sup> Robert Balfanz, *Putting Middle Grades Students on the Graduation Path: A Policy and Practice Brief*, National Middle School Association, June 2009, at 10-11; Diplomas Now, *Diplomas Now Benefits Students, their Schools, and Communities: hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).



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Research has reaffirmed the importance of utilizing early warning and intervention systems in improving student achievement in the middle grades.<sup>49</sup> Benefits of these systems include:

- The ability to pinpoint and address student disengagement on an individual student basis;
- Decreased reliance on broader socioeconomic markers of demographics and economic status to identify at-risk students;
- The ability to target resources to improve student achievement by focusing on academic performance and thereby reduce the interference of unfavorable nonacademic factors on student success; and
- Identification of patterns in early warning indicators at the school and district levels to identify systemic weaknesses in schools that are increasing the likelihood of student dropouts.<sup>50</sup>

In Florida, the following indicators must be used to monitor middle grades students:

- Attendance below 90 percent;
- Course failure in English language arts or mathematics;
- One or more in-school or out-of-school suspensions; and
- Scoring a Level 1 score on the statewide, standardized reading or mathematics assessments.<sup>51</sup>

When a student exhibits two or more early warning indicators, the school must convene the school's child study team,<sup>52</sup> or a similar team established to implement the school's early warning system, to

<sup>48</sup> Florida Department of Education, *Safe and Supportive Environments: hearing before the House Education K-12 Subcommittee* (Feb. 4, 2015).

<sup>49</sup> Trish Williams, Matthew Rosin, & Michael W. Kirst, *Gaining Ground in the Middle Grades*, EDUC. OUTLOOK, January 2011, at 1; Southern Regional Education Board, *Improved Middle Grades Schools for Improved High School Readiness: Ten Best Practices in the Middle Grades* (2012), at 17, available at [publications.sreb.org/2012/12V05\\_MiddleGrades\\_10\\_Best\\_Practices.pdf](http://publications.sreb.org/2012/12V05_MiddleGrades_10_Best_Practices.pdf); Southern Regional Education Board, *A New Mission for the Middle Grades: Preparing Students for a Changing World* (2011), at 13, available at [publications.sreb.org/2011/11E15\\_Mid\\_Grades\\_Com.pdf](http://publications.sreb.org/2011/11E15_Mid_Grades_Com.pdf); Education Commission of the States, *Middle Grades: 15 Actions Your State Can Take to Maximize Young Adolescents' Readiness for Grade 9—and College and Careers*, THE PROGRESS OF EDUC. REFORM, August 2009, at 2; Alliance for Excellent Education, *Using Early-Warning Data to Improve Graduation Rates: Closing Cracks in the Education System* (2008), available at <http://www.all4ed.org/wp-content/uploads/EWI.pdf>.

<sup>50</sup> Alliance for Excellent Education, *Using Early-Warning Data to Improve Graduation Rates: Closing Cracks in the Education System* (2008), at 2-3, available at <http://www.all4ed.org/wp-content/uploads/EWI.pdf>.

<sup>51</sup> Districts may prescribe additional early warning indicators for schools to use. Section 1001.42(18)(b)1., F.S.

<sup>52</sup> School child study teams are convened by school principals to help enforce school attendance requirements pursuant to s. 1003.26, F.S.

determine appropriate intervention strategies for the student.<sup>53</sup> The team may be the student's individualized education program (IEP) team, if applicable, or any other team the school establishes for the purpose of academic intervention. The school must provide to the student's parent at least 10 days' written notice of the meeting. The notice must indicate the meeting's purpose, time, and location, and the school must provide the parent the opportunity to participate in the meeting.

Each school that includes any of grades 6, 7, or 8 must include annually in its school improvement plan the following information and data on the school's early warning system:

- A list of the early warning indicators used in the system;
- The number of students identified by the system as exhibiting two or more early warning indicators;
- The number of students by grade level that exhibit each indicator; and
- A description of all intervention strategies employed by the school to improve the academic performance of students identified by the early warning system.

Students identified by a school's early warning system are eligible to receive services funded through the dropout prevention and academic intervention programs, subject to appropriation in the General Appropriations Act.<sup>54</sup>

### Effect of Proposed Changes

The bill updates and streamlines provisions relating to compulsory attendance and enforcement for both public and private schools by:

- Requiring districts to work with parents to find the cause of nonattendance rather than simply identify remedies.
- Providing for consistent use of terms that describe students who are chronically absent from school for ten percent or more of a school year for any reason.
- Requiring districts to adopt a policy to provide early intervention for students at risk of becoming chronically absent based upon prior attendance data.
- Requiring districts to exhaust their responsibilities for addressing a student's nonattendance or nonenrollment, including notifying parents of services available for parents and children under the Family and School Partnership for Student Achievement Act and evaluating whether referral to other agencies for family services is warranted,<sup>55</sup> before the superintendent files a truancy petition.

The bill revises requirements related to early warning systems for middle schools by clarifying that a school-based team must monitor early warning system data. To allow for more efficient use of time and resources, the bill requires the team to convene and determine appropriate intervention strategies for a student exhibiting two or more indicators only if the student is not already being served by an intervention program. The bill requires that data and information relating to the exhibited indicators must be used to inform any intervention strategies provided to a student identified by the early warning system.

To bolster dropout prevention and support diploma completion, the bill allows the GED exam to be administered to high school equivalency diploma candidates 16 years of age or older, regardless of whether extraordinary circumstances exist.

## **School Climate**

### Present Situation

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<sup>53</sup> Section 1001.42(18)(b)2., F.S.

<sup>54</sup> Section 1003.53(1)(c)4., F.S.

<sup>55</sup> Section 1002.23(2)(b), F.S.

The K-12 Subcommittee held four meetings to discuss efforts to increase academic outcomes for students. The discussions included the respective roles of district school boards, superintendents, and school principals. During these discussions educational leaders identified various factors that affect student outcomes such as attendance, discipline and academic intervention for students at risk of dropping out. A consistent theme from these discussions was the important role of a safe and supporting learning environment, sometimes referred to as school climate.<sup>56</sup>

Florida law requires school boards to adopt rules, policies, and procedures for addressing disciplinary issues and providing for a safe and orderly school environment.<sup>57</sup> Each school board must adopt a code of student conduct that is based upon its rules governing student conduct and discipline.<sup>58</sup> At the beginning of each school year, the code of student conduct must be:

- Distributed to all teachers, school personnel, students, and parents;
- Made available in the school district's student handbook or similar publication; and
- Discussed in student classes, school advisory council meetings, and parent and teacher association or organization meetings at the beginning of the school year.<sup>59</sup>

According to the school districts and other presenters, school responsiveness to incidents of bullying and harassment is critical to establishing a school climate that promotes student learning. Current law, among other things, prohibits bullying or harassment:

- Of any public K-12 student or employee during a public K-12 education program or activity;
- During a school-related or school-sponsored program or activity;
- On a public K-12 school bus;
- Using a computer, computer system, or computer network that is within the scope of a public K-12 educational institution;<sup>60</sup> or
- Using technology or electronic devices that are not owned or otherwise controlled by a school district or school, but only if the bullying substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school. The law does not require a school to staff or monitor any non-school related activity, function, or program in its efforts to prevent bullying and harassment.<sup>61</sup>

The terms "bullying" and "harassment" constitute the following behaviors:

- **Bullying:** Systematically and chronically inflicting physical hurt or psychological distress on one or more students, which may involve:
  - Teasing;
  - Social exclusion;
  - Threat;
  - Intimidation;
  - Stalking;
  - Physical violence;
  - Theft;
  - Sexual, religious, or racial harassment;
  - Public or private humiliation; or

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<sup>56</sup> Florida Department of education, *Safe and Supportive Environments: hearing before the House Education K-12 Subcommittee* (Feb. 4, 2015).

<sup>57</sup> Section 1006.07(1)(a), F.S.

<sup>58</sup> Section 1006.07(2), F.S.

<sup>59</sup> *Id.*

<sup>60</sup> "Within the scope of a public K-12 educational institution" means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity. Section 1006.147(3)(d), F.S.

<sup>61</sup> Section 1006.147(2), F.S.

- Destruction of property.<sup>62</sup>
- **Cyberbullying:** Bullying through the use of technology or electronic communication, e.g., email, postings on internet websites or social media, instant messages, text messages, or cell phone.<sup>63</sup>
- **Harassment:** Threatening, insulting, or dehumanizing gestures, use of computers, or written, verbal, or physical conduct directed against a student or school employee that causes reasonable fear of harm to person or property; substantially interferes with a student's educational performance, opportunities, or benefits; or substantially disrupts the orderly operation of a school.<sup>64</sup>

The law further specifies that bullying and harassment include:

- Retaliating against a student or school employee for reporting bullying or harassment;
- Reporting bullying or harassment, which reporting is not made in good faith;
- Perpetuating bullying or harassment with the intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by incitement or coercion; use of (or providing access to) a school district's computer, computer system, or computer network; or conduct substantially similar to bullying or harassment.<sup>65</sup>

Each school district's bullying and harassment policy must, among other things:

- Prohibit, define, and describe the behaviors that constitute bullying and harassment;
- Establish procedures for reporting and investigating acts of bullying and harassment;
- Establish procedures for making referrals to law enforcement;
- Provide instruction to students, parents, teachers, and others on recognizing behavior that leads to bullying and harassment and taking preventative action;
- Establish procedures for including "incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6)"<sup>66</sup>; and
- Procedures for referring victims and perpetrators to counseling.<sup>67</sup>

Current law does not require school principals to review or implement the district school board policy.

Annually, the Commissioner of Education must submit a report on the statewide implementation of bullying and harassment policies to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also include data regarding incidents of bullying and harassment. Distribution of safe schools funds to a school district is contingent upon the school district's compliance with required procedures for reporting bullying and harassment and reporting regarding policy implementation and incidents.<sup>68</sup>

### *Protected Student Speech*

Federal law requires the Secretary of the U.S. Department of Education (U.S. DOE) to issue guidance on constitutionally protected prayer in public schools.<sup>69</sup> Florida law requires the DOE to annually

<sup>62</sup> Section 1006.147(3)(a), F.S.

<sup>63</sup> See s. 1006.147(3)(b), F.S.

<sup>64</sup> Section 1006.147(3)(c), F.S.

<sup>65</sup> Section 1006.147(3)(f), F.S.

<sup>66</sup> Section 1006.147(4)(f), (h), (k), and (l), F.S. The School Environmental Safety Incident Reporting (SESIR) System is used by DOE to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safeschools/sesir.asp> (last visited Feb. 26, 2015).

<sup>67</sup> *Id.*

<sup>68</sup> Section 1006.147(7) and (9), F.S.

<sup>69</sup> 20 U.S.C. s. 7904(b).

distribute these guidelines to district school board members, superintendents, school principals, and teachers.<sup>70</sup>

Additionally, the Florida Religious Freedom Restoration Act prohibits government from substantially burdening acts (or refusals to act) that are “substantially motivated by a religious belief,” unless there is a compelling governmental interest for burdening the person and the burden is the least restrictive means of accomplishing that interest.<sup>71</sup> Section 1003.4505, F.S., prohibits district school boards, administrative personnel, and instructional personnel from “taking affirmative action . . . that infringes or waives the rights or freedoms afforded to instructional personnel, school staff, or students by the First Amendment to the United States Constitution, in the absence of the express written consent of any individual whose constitutional rights would be impacted by such infringement or waiver.”

### Effect of Proposed Changes

The bill revises current law related to district school board anti-bullying, anti-harassment policies by requiring each district school board to review its policy every three years with the involvement of community stakeholders. The policy must be integrated with each school’s bullying prevention and intervention program. The bill also clarifies that there must be a procedure for receiving reports of alleged acts of bullying and requires the policy to include a list of programs authorized by the school district to provide bullying and harassment prevention instruction.

The bill makes each school principal responsible for implementing the district school board’s bullying and harassment prevention procedures established in its anti-harassment, anti-bullying policy. In addition, the bill provides the Education Practices Commission authority to discipline a teacher’s or school administrator’s certificate if he or she fails to report and actual or suspected incident of bullying, harassment, or hazing.<sup>72</sup>

The bill requires DOE to periodically review the collection and classification of school incidents with stakeholders to increase the accuracy and transparency of school environment and safety incident reporting. In addition, the bill requires each school district professional development system to provide access to suicide prevention educational resources.

The bill codifies in statute the Safe Schools Allocation, which is currently only provided for in the General Appropriations Act. Along with reports of student discipline, the bill makes distribution of safe school funds to a school district contingent upon the district’s compliance with reporting requirements for incidents of bullying and harassment.

The bill requires DOE to annually notify districts of the requirements of the Religious Freedom Restoration Act of 1998 and s. 1003.4505, relating to protection of school speech.

## **Ethics Requirements for School Officials**

### Present Situation

#### *Standards of Ethical Conduct*

District school boards must adopt policies that establish standards of conduct for instructional personnel and school administrators. The policy must require:

- Require training on the standards;

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<sup>70</sup> Section 1002.205, F.S.

<sup>71</sup> Section 761.03, F.S.

<sup>72</sup> Hazing is prohibited in schools that contain any of grades 6-12 under s. 1006.135, F.S.

- Establish a duty to report, and procedures for reporting, alleged misconduct by other instructional personnel or school administrators which affects the health, safety, or welfare of a student; and
- Include an explanation of certain protections from liability for reporting in good faith any instance of child abuse, abandonment, or neglect to the Department of Children and Families or law enforcement<sup>73</sup> or for disclosing information reporting former or current employees upon the request of a prospective employer.<sup>74, 75</sup>

In addition, district school boards and their employees are prohibited from entering into a confidentiality agreement regarding terminated or dismissed instructional personnel or administrators who resign in lieu of termination based in part on misconduct affecting the health, safety, or welfare of a student. Districts may not provide instructional personnel or school administrators terminated for such conduct with employment references or discuss their performance with prospective employers. Further, any contract that has the purpose or effect of concealing such misconduct by instructional personnel or school administrators is void as contrary to public policy.<sup>76</sup>

### *Hiring school district employees*

Experts testifying before the K-12 Subcommittee emphasized that the decision to select and place principals and other school administrative leaders must be data-driven and take into consideration the unique skills and qualities of the individual and the unique needs of the school.

Decisions to place an administrator in a school based on other considerations, such as relation to a school board member or superintendent, may be inconsistent to what the experts expressed is best for improving student learning and promoting transparency. Current law prohibits district school board members from employing or appointing a relative under their direct supervision.<sup>77</sup> However, the prohibition on appointing or employing relatives as direct reporting employees does not extend to superintendents.

### *Penalties for Failure to Report Financial Interests*

All elected constitutional officers, other public officers, candidates, and employees must file full and public disclosure of their financial interests, either with the Commission on Ethics or, for candidates for public office, the local Supervisor of Elections.<sup>78</sup> This requirement includes elected and appointed superintendents and district school board members.<sup>79</sup> The Commission on Ethics administers automatic fines for public officers and employees who fail to timely file, by July 1 each year, the required annual financial disclosure.<sup>80</sup>

If the individual owing an unpaid fine is currently a public officer or employee, the Commission on Ethics may notify the Chief Financial Officer or the local governing body,<sup>81</sup> as applicable, that the individual has an unpaid fine. Upon notification, the Chief Financial Officer or local governing body must begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any

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<sup>73</sup> Section 39.203, F.S.

<sup>74</sup> Section 768.095, F.S.

<sup>75</sup> Section 1001.42(6), F.S.

<sup>76</sup> Section 1001.42(6), F.S.

<sup>77</sup> The term “relative” includes an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

<sup>78</sup> Art. II, s. 8(a), Fla. Const.; Rule 34-8.002(1), F.A.C. *See also* Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2014), at 11-12, available at <http://www.ethics.state.fl.us/publications/2014%20Guide.pdf>.

<sup>79</sup> *See* s. 112.3145(1)(a)1.-3., F.S.

<sup>80</sup> Section 112.3144(5)(e), F.S. A fine of \$25 per day for each day late, up to a maximum of \$1,500. *Id.*

<sup>81</sup> i.e., a county, municipality, or special district. *See* s. 112.3145(1), F.S.

salary-related payment to the individual and remit it to the commission until the fine is satisfied.<sup>82</sup> District school boards are not specifically required to withhold salary payments for unpaid fines.

### Effect of Proposed Changes

The bill revises outdated terminology to make it clear that school boards must adopt standards of ethical conduct for administrative personnel<sup>83</sup> and school officers<sup>84</sup> (currently identified as school administrators). The bill also establishes consistent school district hiring requirements by extending the prohibition on appointing or employing a relative for district school board members to district school superintendents. In addition, the bill authorizes district school boards, like other local governing bodies, to withhold unpaid fines that are owed to the Commission on Ethics.

## **School Transparency**

### Present Situation

#### *Education Records*

Federal and state law grants parents the right to inspect, review, and challenge the content of their child's education records.<sup>85</sup> Education records are records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.<sup>86</sup>

The federal regulations implementing the Federal Education Records Privacy Act (FERPA) require that educational agencies comply with a parent's or student's request to access the student's education records within a reasonable period of time not to exceed 45 days.<sup>87</sup> Florida rule requires that a school district comply with a student or his or her parent's request to inspect and review the student's education records within a reasonable period of time not to exceed 30 days.<sup>88</sup>

#### *Strategic Planning*

One method of effective, transparent, district-wide school administration identified by presenters before the K-12 Subcommittee is the use of a district-adopted, three- to five-year strategic plan. District strategic plans help school districts improve student learning by publicly establishing long-term goals, developing strategies and timelines to meet the goals, and measuring results of the strategies to determine where additional improvement can be made. For example, a strategic plan can set goals related to student mastery of academic standards, outline strategies to meet the goal (such as institutionalizing a process to promote the growth of leaders and developing and retaining high quality and enthusiastic instructional personnel), and then include updates indicating progress made towards meeting the goals.<sup>89</sup>

#### *Out-of-Field Teachers*

Florida law requires that a parent be notified in writing if his or her child is in a class taught by a teacher without a certificate in the subject matter (i.e., out of field) for the class.<sup>90</sup> However, the law does not

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<sup>82</sup> Section 112.31455(1), F.S.

<sup>83</sup> "Administrative personnel are generally high-level responsible personnel . . . such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities." Section 1012.01(3), F.S.

<sup>84</sup> The term "school officers" includes, for school districts, the district school superintendent and district school board members. Section 1012.01(1), F.S.

<sup>85</sup> 20 U.S.C. s. 1232g(a); 34 C.F.R. part 99; s. 1002.22(2), F.S.; rule 6A-1.0955(6)(b), F.A.C.

<sup>86</sup> 34 C.F.R. 99.3.

<sup>87</sup> 34 C.F.R. 99.10(b).

<sup>88</sup> Rule 6A-1.0955(6)(b), F.A.C.

<sup>89</sup> See e.g., St. Johns County School District, *St. Johns County School District Strategic Plan 2010-2015*, available at [http://www.stjohns.k12.fl.us/admin/plan/SP%20Final 2010 Bd%20Approved.pdf](http://www.stjohns.k12.fl.us/admin/plan/SP%20Final%202010%20Bd%20Approved.pdf).

<sup>90</sup> Section 1012.42, F.S.

expressly provide for a parent to request that his or her child be transferred to a class to which an in-field certified teacher is assigned.

### Effect of Proposed Changes

To increase transparency for parents, the bill provides students and their parents the right to inspect the student's education records within a reasonable time, but in no case longer than 14 days after the student or parent requests access to the records. In addition, the bill provides students and their parents the right to request and receive copies of the student's education records within a reasonable time under reasonable conditions, subject to a fee in accordance with public records request requirements. The bill requires each district to establish a process by which parents will be notified of their ability to access their children's homework assignments online.

The bill requires each district school board, after considering recommendations submitted by the district school superintendent, to adopt a strategic plan that aligns financial resources and academic performance with the school board's mission and long-term goals.

The bill also expressly allows the parent of a student in a class with an out-of-field teacher to request the school to transfer the student to another class taught by an in-field teacher.

### **Exceptional Students Instruction**

The bill makes the following technical changes:

- Specifies definitions for "regular class placement," "resource placement," and "separate class placement."
- Indicates that education placement and the provision of a free appropriate public education are topics available for a due process hearing that students of exception students must be provided notice of.
- Specifies that the 10-day notice of an instructional education plan team meeting requirement concerning any change in placement of an exceptional student may be waived by informed consent.
- Clarifies that the extraordinary exemption from administration of a statewide, standardized assessment for certain students with disabilities<sup>91</sup> may, instead of shall, be granted.

### **B. SECTION DIRECTORY:**

Section 1. Amends s. 984.151, F.S.; conforming a cross-reference.

Section 2. Amends s. 1001.41, F.S.; requiring district school boards to adopt a strategic plan.

Section 3. Amends s. 1001.42, F.S.; providing for certain standards for administrative personnel and school officers; revising the early warning system for certain students.

Section 4. Amends s. 1002.205, F.S.; requiring the Department of Education to annually provide notice of certain requirements and statutes.

Section 5. Amends s. 1003.01, F.S.; revising and adding definitions.

Section 6. Amends s. 1003.02, F.S.; conforming a cross-reference.

Section 7. Amends s. 1003.23, F.S.; requiring certain public school personnel and private schools to maintain certain attendance records.

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<sup>91</sup> Section 1008.212, F.S.  
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Section 8. Amends s. 1003.24, F.S.; deleting a provision providing that the absence of a student from school is prima facie evidence for certain violations.

Section 9. Amends s. 1003.26, F.S.; revising provisions relating district responsibilities to the enforcement of school attendance and nonattendance policies.

Section 10. Amends s. 1003.27, F.S.; revising provisions for court procedures and penalties relating to compulsory school attendance.

Section 11. Amends s. 1003.435, F.S.; revising the allowable age for candidates for a high school equivalency diploma; deleting an exception.

Section 12. Amends s. 1003.57, F.S.; revising definitions; revising the requirements for certain notices to parents of exceptional students.

Section 13. Amends s. 1003.5715, F.S.; making technical changes.

Section 14. Amends s. 1006.09, F.S.; requiring the department to periodically review the collection and classification of school incidents with stakeholders.

Section 15. Amends s. 1006.283, F.S.; requiring school districts to notify parents of their ability to access homework assignments through a certain system.

Section 16. Amends s. 1008.212, F.S.; authorizing rather than requiring extraordinary exemptions be given to students.

Section 17. Amends s. 1002.20, F.S.; providing parents and students the right to access student education records.

Section 18. Amends s. 1006.147, F.S.; requiring school districts to revise bullying and harassment policies within a specified timeframe; deleting provisions relating to safe schools funds and reporting requirements.

Section 19. Amends s. 1011.62, F.S.; creating a safe schools allocation to provide funding to school districts for certain safe schools activities.

Section 20. Amends s. 1012.23, F.S.; revising school district personnel policies relating to principals and employees of the district school board.

Section 21. Amends s. 1012.42, F.S.; providing that a parent of a student in certain classes may request his or her student be transferred to a classroom with an in-field teacher; requiring the school to respond to a parent's request within a specified timeframe and provide the parent with certain notifications.

Section 22. Amends s. 1012.795, F.S.; revising causes for suspension of educator certificates.

Section 23. Amends s. 1012.98, F.S.; requiring a school district's professional development system to provide access to suicide prevention educational resources.

Section 24. Amends s. 112.3144, F.S.; revising provisions for the notification of unpaid automatic fines for certain disclosure failures; providing an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.