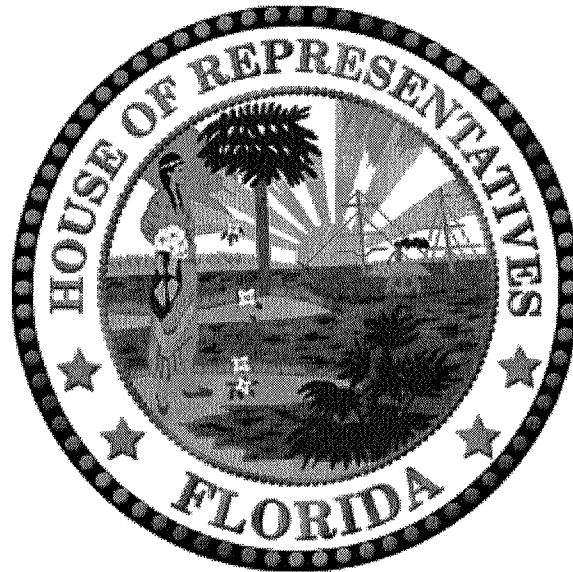


# **Florida**

# **House of Representatives**



## **Meeting Packet**

**February 5, 2008**

**9:45 a.m.—12:00 p.m.**

**212 Knott**

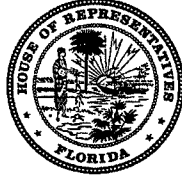
## **Committee on K - 12**

**Speaker**

**Marco Rubio**

**Chair**

**Anitere Flores**



# **The Florida House of Representatives**

**Schools & Learning Council**

**Committee on K-12**

**Marco Rubio**  
Speaker

**Anitere Flores**  
Chair

**Meeting Agenda**  
**Tuesday, February 5, 2008**  
**212 Knott**  
**9:45 a.m. – 12:00 p.m.**

- I. Opening Remarks by Chair Flores**
- II. Roll Call**
- III. Presentations by:**
  - **Association of American Publishers**
  - **Department of Education and Spectrum K12 School Solutions regarding the Individualized Education Program (IEP)**
- IV. Consideration of the following bill(s):**
  - **HB 185 Public K-12 Education by Representative Heller**
  - **HB 251 Public Secondary Schools by Representative Jordan**
  - **HB 335 Indecent Wearing of Below-Waist Underwear by Representative Bullard**
- V. Closing Comments / Meeting Adjourned**





## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

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**Bureau of Exceptional Education and Student Services • Florida Department of Education**

***Bambi J. Lockman, Chief  
Bureau of Exceptional Education and Student Services  
House of Representatives Committee on K-12  
Tuesday, February 5, 2008***

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## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

# May – October 2005

- **Bureau Activities**

- Established the IEP Paperwork Reduction Taskforce
- Surveyed Florida districts regarding statewide IEP
- Identified components needed to streamline the IEP process and support full compliance
- Reviewed electronic IEP systems implemented in selected districts



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **Related Legislation**

- **HB 281 (2005) School Districts/Paperwork Reduction**
- **HB 7087 (2006) created S. 1003.576, F.S., Individual Education Plans for Exceptional Students**



## *PORTAL TO EXCEPTIONAL EDUCATION RESOURCES*

Bureau of Exceptional Education and Student Services • Florida Department of Education

### Related Legislation

- IDEA 2004 and its implementing regulations at 34 CFR 300.704(b)(4) – allow that “...Funds reserved under paragraph (b)(1) of this section also may be used...(iii) To support paperwork reduction activities, including expanding the use of technology in the IEP process...”



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### May 2006

- **Contract with Ohio State University Center for Special Needs Populations**
  - Professional support for national, regional, state, and local projects
  - Expertise in information communications technology and computer networks
  - Develop statewide Web-based ESE system
  - Collaboration with a multi-district design team





## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### Project Goal

- Ensure management of a ***secure*** system for 67+ school districts, including
  - Charter schools
  - Juvenile Justice facilities
  - Developmental research lab schools
  - Florida School for the Deaf and the Blind
  - Department of Corrections



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **Project Goal**

- Reduce paperwork and increase instructional time
- Support district efforts to ensure compliance with all federal and state requirements related to exceptional student education



# PORTAL TO EXCEPTIONAL EDUCATION RESOURCES

Bureau of Exceptional Education and Student Services • Florida Department of Education

Logged In: SunshineLevel23RHARPER District: Gulf Student: Samuel Chase DOB: 9/25/1958 Grade: 13 Software Update: 1/14/2008 1:52 PM EDT

### External Links

- Informational Site
- Sunshine Connections

### General Links

- Student Roster
- Student Dashboard
- Documents and Forms

### IEP Links

- Parent Notification
- Plan Information
- Special Considerations
- General Factors and Assessment Data
- Desired Post-School Outcomes
- Transfer of Rights
- Present Levels, Goals, and Objectives
- Special Education
- Related Services
- Supplemental Aids and Services
- Extended School Year Services
- Classroom Accommodations
- Staff Supports
- Least Restrictive Environment
- Assessments
- Meeting Participants
- Prior Written Notice
- Access and Implementation
- IEP Compliance Check

### IEP Compliance Check

**IEP Compliant: True**

The IEP has passed the compliance check. You may print the plan by pressing the "Print Final IEP" button at the bottom of the page.

<b>Student Information</b>	Passed
<b>Plan Information</b>	Passed
<b>Special Considerations</b>	Passed
<b>General Factors and Assessment Data</b>	Passed
<b>Desired Post-School Outcomes</b>	Passed
<b>Transfer of Rights</b>	Passed
<b>Assessments</b>	Passed
<b>Present Levels, Goals, and Objectives</b>	Passed
<b>Present Levels, Goals, and Objectives</b>	Passed
<b>Special Education Services</b>	Passed
<b>Staff Supports</b>	Passed
<b>Access and Implementation</b>	Passed
<b>Meeting Participants</b>	Passed
<b>Parent Notification</b>	Passed
<a href="#">Run Compliance Check Again</a>	

|



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **Project Goal**

- Ensure timely transfer of data and the provision of services for transferring students
- Allow for more timely and efficient compliance monitoring and dispute resolution by DOE



## *PORTAL TO EXCEPTIONAL EDUCATION RESOURCES*

Bureau of Exceptional Education and Student Services • Florida Department of Education

### System Design

- Uniform, consistent, reliable Web-based application for all districts
- Integrates with districts' existing student information systems to share student, teacher, and classroom data



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- **Complies with the requirements of Section 508 of the Rehabilitation Act of 1973**
  - **Access to and use of electronic and information technology (EIT) by individuals with disabilities**
- **Administrative ability to update content in response to changes in rules and/or regulations**



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- Allows districts to access transfer students' records at the time of enrollment
  - Seamless provision of services
  - Minimize paperwork burden



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### System Design

- Implements a ***process*** approach designed to focus on individual student needs when developing IEPs, SPs, and EPs
- Discourages simply “filling out the forms”





## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design - Initial**

- Parent Notification
- Eligibility/placement
- Individual Educational Plan (IEP) for students with disabilities
- IEP amendment / review
- Transition IEP (TIEP)
- Summary of Performance



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design - Initial**

- Services Plan (SP) for parentally-placed private school students
- Educational Plan (EP) for gifted students
- Prior Written Notice for Proposal or Refusal of Services
- Parent-Teacher input form
- Pre-populated progress reports



## PORTAL TO EXCEPTIONAL EDUCATION RESOURCES

Bureau of Exceptional Education and Student Services • Florida Department of Education

Logged In: SunshineLive\23RHARPER District: Gulf Student: William Howard Taft DOB: 9/25/1990 Grade: 12 Software Update: 1/22/2008 2:36 PM EDT

### External Links

- Informational Site
- Sunshine Connections

### General Links

- Student Roster
- Student Dashboard
- Documents and Forms

### IEP Links

- Parent Notification
- Plan Information
- Special Considerations
- General Factors and Assessment Data
- Desired Post-School Outcomes
- Transfer of Rights
- Present Levels, Goals, and Objectives
- Special Education
- Related Services
- Supplemental Aids and Services
- Extended School Year Services
- Classroom Accommodations
- Staff Supports
- Least Restrictive Environment
- Assessments
- Meeting Participants
- Prior Written Notice
- Access and Implementation
- IEP Compliance Check

## Parent Notification

### Notice Sent By:

First: 11/30/2007

Title: Guidance Counselor

Last: 12/03/2007

Phone: 850-245-0476

### Notice Details

Date Notice Sent: 11/30/2007

Notice Type: Written

If Other type, describe:

To the parents of:

**William Howard Taft**  
Suite 614, Burlington Ctr.

Tallahassee FLA 32399  
ken.johnson@fldoe

### Meeting Details

**This is a Transition IEP.**

Meeting Purpose:

- Initial IEP
- Annual Review
- IEP Amendment
- Part C to Part B Transition
- FBA/PBIP
- Reevaluation
- Eligibility
- Manifestation Determination
- Other



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design – Next Steps**

- **Intervention/Prevention activities**
  - **Response to Intervention**
  - **Progress monitoring plans**
- **Section 504 Plans**
- **Referral**
- **Comprehensive evaluation**
- **Manifestation determination**
- **E-mail notification**



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design – Next Steps**

- Reevaluation
- Dismissal / Age out / Graduation
- Part C to B Transition
- Matrix of services
- Functional behavioral assessment
- Positive behavioral intervention plan



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- Accessible to DOE staff conducting compliance reviews and dispute investigations required under IDEA
- Enables the Bureau to provide targeted technical assistance and professional development



# PORTAL TO EXCEPTIONAL EDUCATION RESOURCES

Bureau of Exceptional Education and Student Services • Florida Department of Education

Logged In: SunshineLive123RHARPER District: Gulf Student: John J. Rutledge II DOB: 10/14/1995 Grade: 4 Software Update: 1/14/2008 1:52 PM EDT

### External Links

- Informational Site
- Sunshine Connections

### General Links

- Student Roster
- Student Dashboard
- Documents and Forms

### IEP Links

- Parent Notification
- Plan Information
- Special Considerations
- General Factors and Assessment Data
- Desired Post-School Outcomes
- Present Levels, Goals, and Objectives
- Special Education
- Related Services
- Supplemental Aids and Services
- Extended School Year Services
- Classroom Accommodations
- Staff Supports
- Least Restrictive Environment
- Assessments
- Meeting Participants

### Related Services

Related Services <sup>?</sup>	Initiation Date <sup>?</sup>	Duration Date	Frequency <sup>?</sup>	Location <sup>?</sup>
Audiology <input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
If Other is selected, please describe:				
<input type="text"/>				
If Transportation is selected, please describe:				
<input type="text"/>				
<a href="#">Transportation Form to forward to your transportation provider</a>				
<input type="button" value="Save Data"/>				
Related Services	Initiation Date	Duration Date	Frequency	Location
Audiology	2/1/2008	12/14/2008	weekly	location
<a href="#">edit</a>   <a href="#">delete</a>				
Other: other related service	5/5/2005	5/5/2006	monthly	gym
<a href="#">edit</a>   <a href="#">delete</a>				
Transportation: transportation service	1/1/2005	1/1/2006	twice	library
<a href="#">edit</a>   <a href="#">delete</a>				

« PREVIOUS [ Special Educator ] | NEXT » [ Supplemental Aids and Services ]

## **What related service does the student need?**

### ***Definition***

Transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education.

### ***Professional Development***

OT and PT: The Considerations for Educationally Relevant therapy (CERT) for Occupational and Physical Therapy is a summary of educational considerations based upon a review of student records, evaluations, and other data by the occupational and/or physical therapist. It assists with recommendations for educationally relevant school-based therapy. It is not an evaluation or assessment instrument. The OT/PT along with the IEP team, determine the need for educationally relevant therapy based upon the student's IEP goals and objectives.

Medical Services refers to medical diagnostic processes that provide information needed to plan for the educational needs of the student.

### ***Compliance***

Fla. Admin. Code Ann. R. 6A-6.03411(2): Provision on Specially Designed Instruction and Related Services. Specially designed instruction is required for each exceptional student...

### ***Professional Development***





## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- Coordinates with Sunshine Connections to share existing student demographic data and assessment results
- Generates administrative management reports



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- Flexible Authorization System (FAS)
  - “Builds” IEP/EP/SP teams
- Active Directory Administration Tool (ADAT)
  - Controls access to the PEER application
- Allows districts to customize user access at the district and school levels



## PORTAL TO EXCEPTIONAL EDUCATION RESOURCES

Bureau of Exceptional Education and Student Services • Florida Department of Education

Logged In: SunshineLive\23RHARPER District: Gulf Student: John J. Rutledge II DOB: 10/14/1995 Grade: 4 Software Update: 1/14/2008 1:52 PM EDT

### External Links

- Informational Site
- Sunshine Connections

### General Links

- Student Roster
- Student Dashboard
- Documents and Forms

### Student Dashboard

There is/are 2 progress report(s) overdue.

There is/are 1 progress report(s) due in the next seven (7) days.

Student Dashboard      John J. Rutledge II      10/14/1995      WEWAHITCHKA ELEMENTARY SCHOOL      4

- [Edit Student Information](#)
- [Create New IEP](#)
- [Progress Reports](#)

### Existing/Working Plans

Plan Type	Date Created/Updated	Plan Start Date	Created By	Status
<a href="#">IEP</a>	12/30/2007 8:11:01 PM	12/9/2007	SunshineLive\23RHARPER	Open
<a href="#">IEP</a>	12/12/2007 10:59:31 AM	12/6/2007	TestUser	Open



## *PORTAL TO EXCEPTIONAL EDUCATION RESOURCES*

Bureau of Exceptional Education and Student Services • Florida Department of Education

### System Design

- Functions independently of computer platform, operating system, or browser type
- Small “footprint” ensures efficient operation of application, even during peak use or with lower bandwidth



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **System Design**

- Ownership of the software code will reside with FDOE and product will be owned by the state
- Servers for the system are housed at FDOE
- Provided to districts at no cost
  - No data management fees
  - No services fees
  - No design costs assessed to districts



## ***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

### **Current Status**

- Third-party security assessment was conducted in November 2007 to ensure the integrity and confidentiality of data
- 37 districts are preparing to launch the PEER application



## *PORTAL TO EXCEPTIONAL EDUCATION RESOURCES*

Bureau of Exceptional Education and Student Services • Florida Department of Education

### Current Status

- Data transfers are being coordinated with districts
- Professional development is tailored to individual districts
- Suite of training materials available to facilitate train-the-trainer or self-paced learning models

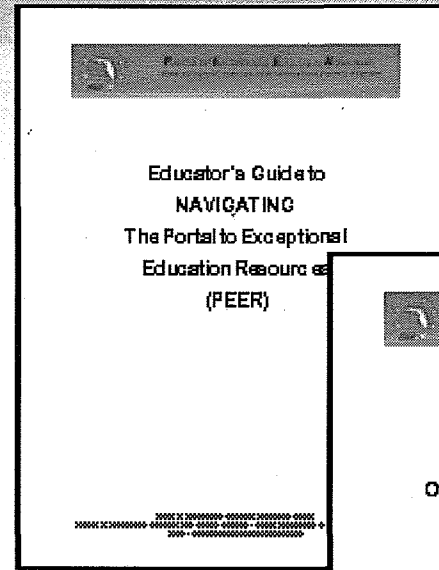


# PORTAL TO EXCEPTIONAL EDUCATION RESOURCES

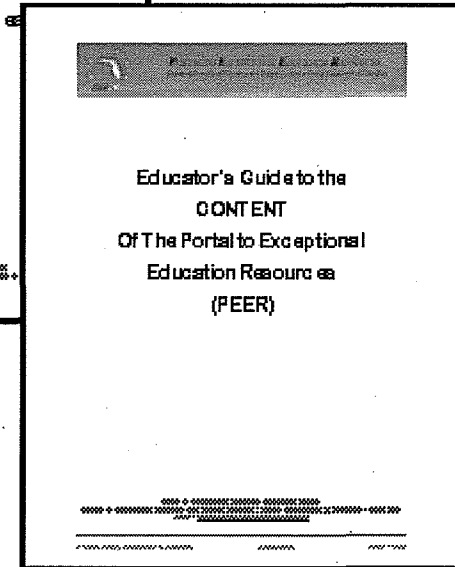
Bureau of Exceptional Education and Student Services • Florida Department of Education

## Printed Manuals

Navigation Guide



Content Guide







***PORTAL TO EXCEPTIONAL EDUCATION RESOURCES***

Bureau of Exceptional Education and Student Services • Florida Department of Education

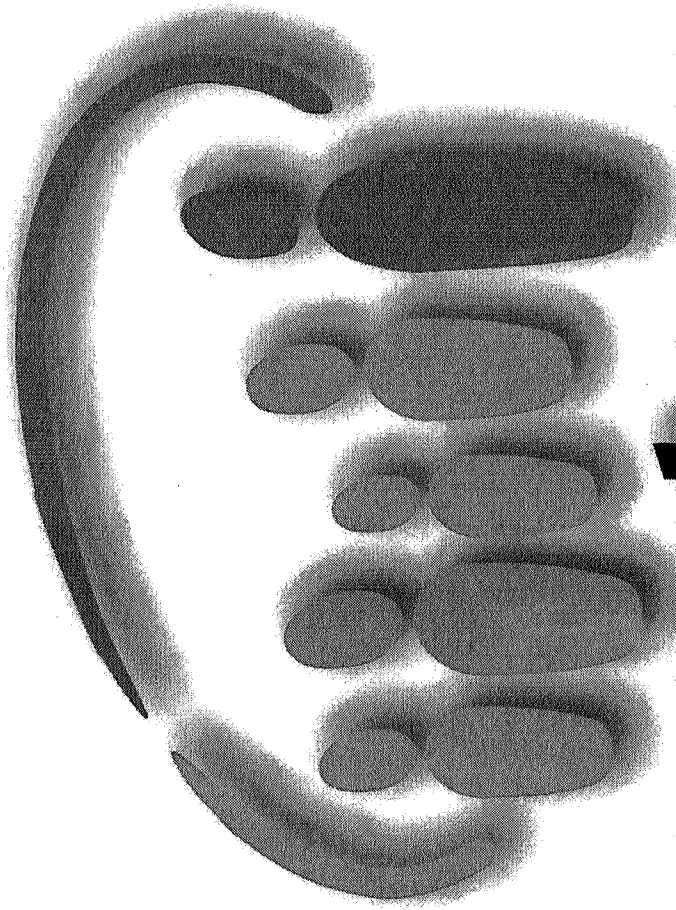
- For additional information, please contact:

Bambi J. Lockman, Chief  
[Bambi.Lockman@fldoe.org](mailto:Bambi.Lockman@fldoe.org)

Kim Komisar, Program Director  
[Kim.Komisar@fldoe.org](mailto:Kim.Komisar@fldoe.org)

850-245-0476





# **spectrum**

**K12 SCHOOL SOLUTIONS**

*Knowledge Led, Quality Driven*

# **Introductions**

**Jim Marshall, Chief Executive Officer**

**Gerry Stefhon, VP Educational Solutions**

**Jodie Butler, VP Government Relations**

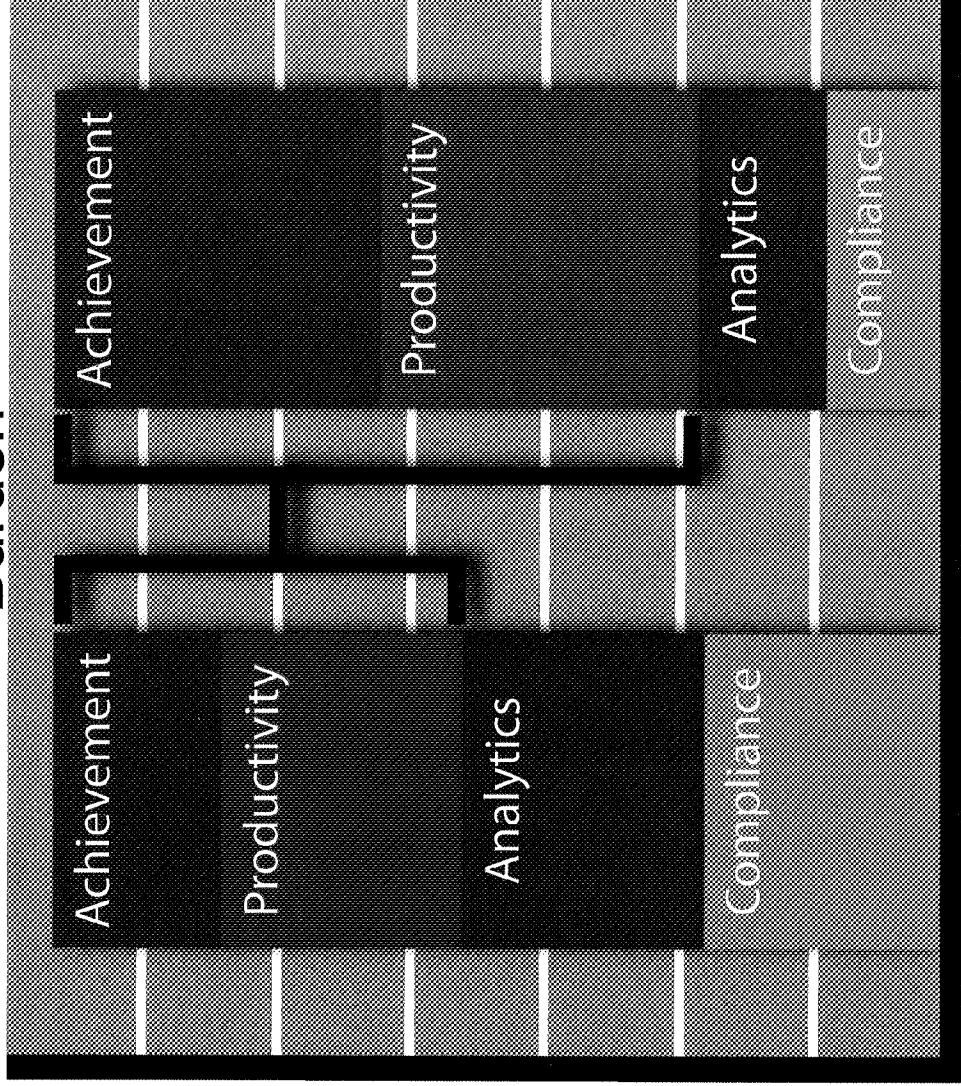
## Spectrum K12 At A Glance

- > A company founded in 1994
- > Exclusive focus on exceptional education and at-risk student solutions
- > 160+ employees
  - » Educators, education directors, administrators
  - » Parents of special needs children
- > Serving more than 5 million students in 29 states
- > Over 950 years combined education experience
- > Simple, comprehensive, integrated, affordable...
  - » ...and so powerful US Patent Office granted patent
- > Strong partnership with MGT here in town
  - » JoAnn Cox
  - » Kathy Brooks



# Why this matters...

Increase Teaching Time  
Decrease Time Spent on Compliance & Paperwork  
**Burden**



## What could a Proven IEP System mean for Florida?

- › **IEP meeting duration reduced by 57%**
- › **IEP meeting frequency reduced by 50%**
- › **Compliance assurance exceeds 95%**
- › **IEP form preparation reduced from 1.5 hours to 30 minutes**
- › **Improving Medicaid reimbursement rates**
- › **Increasing Medicaid verification accuracy**



*Actual Customer Data*

# Questions? Answers!



HB 185  
Rep. Heller

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

ADOPTED                                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED                   \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION               \_\_\_ (Y/N)  
FAILED TO ADOPT                       \_\_\_ (Y/N)  
WITHDRAWN                               \_\_\_ (Y/N)  
OTHER                                     \_\_\_\_\_

1 Council/Committee hearing bill: K-12  
2 Representative(s) Heller offered the following:

3  
4       **Amendment**

5       Remove line(s) 22 and insert:  
6       than 5 days after the first day of each school year or 5 days

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

---

1 Council/Committee hearing bill: K-12  
2 Representative(s) Heller offered the following:

3  
4 **Amendment**

5 Remove line(s) 39-40 and insert:  
6 school district to add an additional class to the multiple birth  
7 siblings' school.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: K-12  
2 Representative(s) Heller offered the following:

3  
4 **Amendment**

5 Remove line(s) 49 and insert:  
6 placement of multiple birth siblings under paragraph (a) in the  
7 manner provided by

1 A bill to be entitled  
 2 An act relating to public K-12 education; creating s.  
 3 1003.06, F.S.; authorizing the parent of multiple birth  
 4 siblings to request certain classroom placement; providing  
 5 a definition; providing exceptions to implementation of  
 6 the requested placement; authorizing appeal of placement;  
 7 specifying conditions under which provisions do not apply;  
 8 providing an effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Section 1003.06, Florida Statutes, is created  
 13 to read:

14 1003.06 Classroom placement of multiple birth siblings.--

15 (1) As used in this section, the term "multiple birth  
 16 siblings" means twins, triplets, quadruplets, or other siblings  
 17 resulting from a multiple birth.

18 (2) (a) The parent of multiple birth siblings who are  
 19 assigned to the same grade level and school may request in  
 20 writing that the school place the siblings in the same classroom  
 21 or in separate classrooms. The request must be made no later  
 22 than 5 days before the first day of each school year or 5 days  
 23 after the first day of attendance of students during the school  
 24 year if the students are enrolled in the school after the school  
 25 year commences.

26 (b) The school may recommend to the parent the appropriate  
 27 classroom placement for multiple birth siblings and may provide

28 professional educational advice to assist the parent with the  
 29 decision regarding appropriate classroom placement.

30 (3) Except as provided in subsection (4) or subsection  
 31 (5), a school shall provide the multiple birth siblings with the  
 32 classroom placement requested by the parent.

33 (4) (a) A school is not required to place multiple birth  
 34 siblings in the same classroom if factual evidence of  
 35 performance shows proof that the multiple birth siblings should  
 36 be separated.

37 (b) A school is not required to place multiple birth  
 38 siblings in separate classrooms if the request would require the  
 39 school district to add an additional class to the grade level of  
 40 the multiple birth siblings.

41 (5) (a) At the end of the first grading period following  
 42 the multiple birth siblings' enrollment in the school, if the  
 43 principal of the school, in consultation with the teacher of  
 44 each classroom in which the multiple birth siblings are placed,  
 45 determines that the requested classroom placement is disruptive  
 46 to the school, the principal may determine the appropriate  
 47 classroom placement for the siblings.

48 (b) A parent may appeal the principal's classroom  
 49 placement of multiple birth siblings in the manner provided by  
 50 school district policy. During an appeal, the multiple birth  
 51 siblings shall remain in the classroom chosen by the parent.

52 (6) This section does not affect:

53 (a) A right or obligation under s. 1003.57 or under the  
 54 Individuals with Disabilities Education Act, 20 U.S.C. ss. 1400

HB 185

2008

55 | et seq., regarding the individual placement decisions of the  
56 | school district; or

57 |       (b) The right of a school district, principal, or teacher  
58 | to remove a student from a classroom pursuant to school district  
59 | student discipline policies.


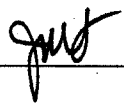
60 |       Section 2. This act shall take effect July 1, 2008.

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 185 Public K-12 Education

**SPONSOR(S):** Heller and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	_____	Gillespie 	Ahearn 
2) <u>Schools &amp; Learning Council</u>	_____		
3) _____	_____		
4) _____	_____		
5) _____	_____		

### SUMMARY ANALYSIS

House Bill 185 allows the parents of multiple birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place the multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level; or
- After the first grading period following multiple birth siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school. (The bill also allows a parent to appeal the principal's determination according to school district policy).

A parent's requested classroom placement must be submitted in writing and made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple birth siblings enrolling after the first day of school).

The twin birth rate rose steadily for a total increase of 42 percent since 1990, and 70 percent since 1980. The rate of triplet and other higher order multiple births climbed by more than 400 percent during the 1980s and 1990s, peaking at 193.5 multiple births per 100,000 births in 1998. Today, one child in 33 is now a twin or higher order multiple.

The bill does not affect the classroom placement of students with disabilities or the disciplinary authority of schools to remove a student from a classroom for misbehavior.

The Florida Department of Education (DOE) has identified several challenges to the bill's implementation, which also create the potential for an indeterminate fiscal impact (**see II. FISCAL IMPACT & ECONOMIC IMPACT STATEMENT**). DOE has also identified a drafting issue (**see III. COMMENTS**).



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple birth siblings be placed in the same classroom or in separate classrooms.

Empower Families: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple birth siblings be placed in the same classroom or in separate classrooms.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

##### ***Twins and Higher Order Multiple Births***

There are two types of twins: *monozygotic* (identical), one-egg, twins; and *dizygotic* (fraternal), two-egg twins. Identical twins are genetically alike, having the same chromosomes and remarkable physical similarities.<sup>1</sup> Identical twins have the same gender, blood type, and hair and eye colors.<sup>2</sup>

Fraternal twins are not necessarily more alike than two siblings born to the same mother and father. The difference between fraternal twins and non-twin siblings is that twins share the same intrauterine environment and are the same age. Fraternal twins may be of the same or opposite genders.<sup>3</sup>

Three or more births to the same mother during the same pregnancy are known as higher order multiples or "supertwins."<sup>4</sup> Higher order multiples include, for example, triplets (three multiple births), quadruplets (four multiple births), and quintuplets (five multiple births). Higher order multiples can be all identical, all fraternal, or a mix of identical and fraternal twins.<sup>5</sup>

##### ***Research on Classroom Placement of Multiple Births***

A 1999 survey by the National Organization for Mothers of Twins Clubs (NOMOTC) found that, nationally, approximately 43 percent of teachers and school principals believed in a policy of separating all multiples in school,<sup>6</sup> although NOMOTC asserted that, in 2000, there was no substantial evidence to support a policy that multiples must be placed in separate classrooms in order for them to grow and develop as individuals.<sup>7</sup>

In January 2004, the National Association of Elementary School Principals reported that the National Association of School Psychologists:

- Found that research was ambivalent as to whether twins should be separated or kept together in school; and

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<sup>1</sup> National Organization for Mothers of Twins Clubs, *Placement of Multiple Birth Children in School: A Guide for Educators 2* (2000).

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

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

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 14.

- Urged that schools maintain a flexible perspective and consult with parents to determine when and if the separation of twins is desirable or unfavorable.<sup>8</sup>

In April 2004, researcher Lucy A. Tully (London, U.K.) and colleagues (London, U.K., and Madison, Wisconsin), found that twins separated in the first year of school (age 5) had more internalizing problems (e.g., depression, anxiety, and social withdrawal) than twins not separated.<sup>9</sup> For identical twins, these problems increased following the first year of separation and persisted through age 7. Tully's team also found that later-separated (age 7) identical twins had poorer reading abilities after separation than non-separated twins. Tully's team found, however, that there were no significant differences among separated and non-separated twins in externalizing behavior (e.g., defying teachers, being aggressive toward others, failing to comply with teacher directions, and arguing). Finally, Tully's team also found that fraternal twins separated after the first year of school were rated as working harder compared to fraternal twins not separated. In sum, Tully and colleagues concluded that their findings demonstrate that school-wide practices, especially those encouraging the separation of twins, have the potential to lead to adjustment problems for at least some children. Their findings did not, however, support the implementation of policies that keep all twins together in school. They concluded that schools should adopt a more flexible, family-focused approach that takes into account the characteristics and experiences of each twin as well as the views of the parents.

By comparison, in August 2005, researcher Marieke van Leeuwen and colleagues (Amsterdam, the Netherlands) found that, in the long term, there are no significant differences in academic achievement or problematic behavior between separated and non-separated twins.<sup>10</sup> Accordingly, van Leeuwen's team concluded that it makes no difference whether twins are separated or not. They also concluded that it still seems sensible for the decision about classroom separation to be based on what parents think is best for their twins and for themselves.

In 2006, researchers David A. Hay (Perth, Australia) and Pat Preedy (Hampshire, U.K.) identified several reasons for separating or not separating multiples:<sup>11</sup>

**General reasons for putting multiples in separate classes:**

- The children are able to operate as individuals within the class situation;
- The teacher is more likely to compare the multiple child against the peer group instead of his or her co-multiple(s);
- The multiple birth child is able to operate without his or her co-multiple telling, particularly if he or she is in trouble;
- The multiple birth child has an opportunity to make friends and socialize as an individual.

**General reasons for keeping multiples together in the same class:**

- Multiple birth children may need the support of each other particularly if they have not experienced separation prior to school; even if multiple birth children are comfortable when separated, they may need to be able to check up on what the other is doing;
- If one child is dominant, the dominant child may lose confidence as he or she no longer has his or her co-multiple(s) to organize;
- The children may be compared more at home particularly if the teachers are very different and one child appears to be making more progress;
- The teachers are less likely to understand how the children operate as multiples, e.g., being upset if one is ill or in trouble.

<sup>8</sup> National Association of Elementary School Principals, "The Trouble with Twins," *The Communicator: The Monthly Newsletter of NAESP*, Vol. 27, No. 5, 1, 7 (Jan. 2004), available at <http://www.naesp.org/ContentLoad.do?contentId=1144> (last visited Jan. 28, 2008).

<sup>9</sup> Lucy A. Tully, et al., "What Effect Does Classroom Separation Have on Twins' Behavior, Progress at School, and Reading Abilities?," *Twin Research*, Vol. 7, No. 2, (International Society for Twin Studies, April 2004).

<sup>10</sup> Marieke van Leeuwen et al., "Effects of Twin Separation in Primary School," *Twin Research and Human Genetics*, Vol. 8, No. 4, 384, 389-90 (International Society for Twin Studies, Aug. 2005), available at [http://www.twinslaw.com/Research\\_files/Leeuwen\\_TRHG\\_2005.pdf](http://www.twinslaw.com/Research_files/Leeuwen_TRHG_2005.pdf) (last visited Jan. 28, 2008).

<sup>11</sup> David A. Hay & Pat Preedy, "Meeting the Educational Needs of Multiple Birth Children," *Early Human Development*, No. 82, 401 (2006), available at <http://www.twinsandmultiples.org/downloads/pubs/haypreedy2006.pdf> (last visited Jan. 28, 2008).

Hay and Preedy also identified certain circumstances when multiple birth children are likely to benefit from separation:<sup>12</sup>

**Multiple birth children are likely to benefit from separation when:**

- One child is markedly more able than the other;
- One child perceives himself or herself as failing;
- There is markedly similar progress with one child leveling up or down so that they can keep together;
- There is disruptive behavior where multiples form a "fatal combination";
- One or both children are dependent, unable to mix or relate with other children;
- There is intense competitiveness so that the child's main goal is to keep up with or beat their co-multiple(s);
- One or both children polarize (go to opposite extremes);
- There is lack of privacy where one multiple birth child constantly reports to parents about the activities and progress of the other.

Hay and Preedy expressed concern that the Minnesota legislature passed a 2005 law allowing parents to be the ones to ultimately decide if twins or higher multiples should be in the same class because the law "fail[ed] to take into account the many issues in deciding whether or not to separate."<sup>13</sup> They warn that putting multiple birth children into separate classes requires careful consideration and consultation with parents because most multiple birth children have had little or no experience of separation before starting school.<sup>14</sup>

Pat Preedy has established a checklist and questionnaire that provides a framework for parents and teachers when discussing the separation of multiple birth children in school.<sup>15</sup> The checklist considers the following:

- Dependence/independence of the multiples;
- Social skills and dependence upon adults;
- Previous experience of being apart;
- Language and abilities relative to each other and to their peer group;
- Behavior at preschool or at school;
- Whether one multiple dominates (e.g., when reading or telling about events), takes turns dominating, or none of the multiples dominate;
- In social situations, whether one multiple always hangs back;
- Interests at home, in sports, and at school;
- Needs for intervention (speech and language therapy, physiotherapy, etc.);
- Same or different friends;
- Whether twins are identical or fraternal and their genders. Generally girls are closer than boys and identical twins are closer than fraternal twins, but there are many exceptions;
- Physical development, *i.e.*, whether the multiples are much smaller (or larger) than most other children;
- Age of the multiples, *e.g.*, whether it is time for multiples to try a new experience;
- Feelings of teachers and parents;
- Views of any other professionals observing the multiples; and

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<sup>12</sup> *Id.*

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

<sup>14</sup> *Id.*

<sup>15</sup> Pay Preedy, "Together or Apart": A Checklist for Parents and Teachers of Multiples 1 (2004), available at [http://www.twinsandmultiples.org/downloads/school\\_checklist.doc](http://www.twinsandmultiples.org/downloads/school_checklist.doc) (last visited Jan. 28, 2008).

- Wishes of the multiples, especially when they differ from each other or from the wishes of adults.<sup>16</sup>

### **National Birth Statistics on Multiple Births**

Hay and Preedy observe that there has been a significant increase in the number of twins and higher multiples so that one child in 33 is now a multiple. Accordingly, it is not unusual for schools to have several sets of twins, as well as triplets, and even higher multiples.<sup>17</sup>

According to the federal Centers for Disease Control and Prevention (CDC), the twin birth rate in 2005 (most recent available data) was 32.2 twins per 1,000 total births.<sup>18</sup> The twin birth rate rose steadily (approximately 3 percent per year between 1990 and 2004) for a total increase of 42 percent since 1990, and 70 percent since 1980. The 2005 rate of triplet and other higher order multiple births was 161.8 multiple births per 100,000 total births. The rate of triplet and other higher order multiple births climbed by more than 400 percent during the 1980s and 1990s, peaking at 193.5 multiple births per 100,000 births in 1998. According to the CDC, two related trends have been closely associated with the rise in multiple births over the last two decades; the older age at childbearing (women in their thirties are more likely than younger women to conceive multiples spontaneously) and the widening use of fertility therapies, including assisted reproductive technologies (eggs and sperm are handled in the laboratory—*e.g.*, in vitro fertilization) and other therapies (*e.g.*, ovulation-inducing drugs and artificial insemination).<sup>19</sup>

**Numbers of Twin, Triplet, Quadruplet, and Other Higher Order Multiple Births:  
United States, 1990, 1995-2005**

<b>Year</b>	<b>Twins</b>	<b>Triplets</b>	<b>Quadruplets</b>	<b>Quintuplets and other higher order multiple births</b>
2005	133,122	6,208	418	68
2004	132,219	6,750	439	86
2003	128,665	7,110	468	85
2002	125,134	6,898	434	69
2001	121,246	6,885	501	85
2000	118,916	6,742	506	77
1999	114,307	6,742	512	67
1998	110,670	6,919	627	79
1997	104,137	6,148	510	79
1996	100,750	5,298	560	81
1995	96,736	4,551	365	57
1990	93,865	2,830	185	13

SOURCE: Centers for Disease Control and Prevention (2007).<sup>20</sup>

### **Florida Policies on Multiple Birth Classroom Placements and Classroom Management**

According to the Florida Department of Education (DOE), “[n]o evidence was found that any of Florida’s local school boards had policies in place that would prohibit twins and other multiple births from being placed in the same classroom.”<sup>21</sup> DOE explained that “[s]ome school districts, such as Miami-Dade County Public Schools, allow all children who are part of a multiple birth to enroll in a school choice program when one of them is selected through the random selection process.”<sup>22</sup>

<sup>16</sup> *Id.*

<sup>17</sup> Hay & Preedy, *supra* note 11, at 397.

<sup>18</sup> U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *National Vital Statistics Report, Vol. 56, No. 6, 24* (Dec. 5, 2007), available at [http://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56\\_06.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56_06.pdf) (last visited Jan. 28, 2008).

<sup>19</sup> *Id.* at 25.

<sup>20</sup> *Id.* at 24.

<sup>21</sup> Florida Department of Education, *2008 Agency Bill Analysis of HB 185, 2* (Dec. 17, 2007).

<sup>22</sup> *Id.*

Florida law allows a teacher to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.<sup>23</sup> If a teacher removes a student from the classroom, the principal may place the student in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program.<sup>24</sup> The principal may also recommend the student for out-of-school suspension or expulsion, as appropriate.

### ***Class-Size Reduction***

In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:<sup>25</sup>

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12.

The constitutional amendment requires the Legislature, beginning with the 2003-2004 fiscal year, to provide funds for reducing the average number of students in each classroom by at least two students per year until reaching the maximum class sizes.<sup>26</sup>

To implement the constitutional amendment, the Legislature required a school district that did not comply with the maximum class sizes to reduce its average number of students per classroom<sup>27</sup> by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level.
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level.
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level.<sup>28</sup>

Thus, for fiscal years 2003-2004 through 2005-2006, a school district that did not meet the maximum class sizes for its classrooms was required to reduce the district's average number of students per classroom by two students. A school district was permitted to have a school whose average class size was not reduced as long as the district's average showed an overall reduction by two students.

For fiscal years 2006-2007 and 2007-2008, a public school (including a charter school) that does not meet the maximum class sizes for its classrooms is required to reduce the school's average number of students per classroom by two students. A school is permitted to have individual classrooms that are not reduced as long as the school's average shows an overall reduction by two students.

Beginning in fiscal year 2008-2009, an individual classroom that does not meet the maximum class size must be reduced by two students to meet the maximum class size.

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<sup>23</sup> Section 1003.32(4), F.S.

<sup>24</sup> Section 1003.32(5), F.S.

<sup>25</sup> Section 1(a), Art. IX of the State Constitution.

<sup>26</sup> *Id.*

<sup>27</sup> The State Constitution specifies that the class-size requirements do not apply to "extracurricular classes." *Id.* Section 1003.03(1), F.S., specifies that the maximum class sizes apply to "core-curricula courses," which section 1003.01(14), F.S., defines as "courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms."

<sup>28</sup> Section 1003.03(2)(b), F.S.

## Proposed Changes:

The bill allows the parents of multiple birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level;  
or
- After the first grading period following the siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school.

The bill allows a parent to appeal the principal's classroom placement of multiple birth siblings. Appeals are conducted in the manner provided by school district policy. The bill directs that, during an appeal, the multiple birth siblings remain in the classroom chosen by the parent. As drafted, the bill appears to limit a parent's opportunity to appeal the principal's classroom placement to instances in which the principal determines that the requested placement is disruptive to the school. The bill does not appear to allow a parent to appeal a classroom placement based on the siblings' performance or the need to add an additional class.

A parent's requested classroom placement must be submitted in writing and made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple birth siblings enrolling after the first day of school). The bill authorizes a school to recommend to parents the appropriate classroom placement for multiple birth siblings. The school may provide professional educational advice to assist parents in deciding the appropriate classroom placement.

The bill specifies that it does not affect a right or obligation under Florida law or the federal Individuals with Disabilities Act regarding the individual placement of exceptional students (*i.e.*, students with disabilities).<sup>29</sup> The bill also declares that it does not affect the authority of a school district, principal, or teacher to remove a student from a classroom in accordance with the district's discipline policies.

The bill provides an effective date of July 1, 2008.

### C. SECTION DIRECTORY:

Section 1. Creates s. 1003.61, F.S., which allows the parents of multiple birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms.

Section 2. Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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<sup>29</sup> Special education and related services for students with disabilities are determined in an individualized education plan (IEP) prepared for the individual student by the student's IEP team.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

According to DOE, "compliance with the class size amendment, scheduling for limited student enrollment courses, and scheduling of small schools will create a fiscal impact of an amount that cannot be calculated at this time."<sup>30</sup> DOE explains:

At small elementary schools with large numbers of multiple birth siblings, it may be difficult to accommodate parents' requests to place siblings in separate classrooms, particularly when there may only be one classroom teacher per grade level at the school. Even at larger schools, a principal may not know which students are twins or multiple births and may need to change student schedules the week before school starts to accommodate parents' requests.<sup>31</sup>

The bill poses two challenges for the schools, particularly at the secondary level, where students attend multiple classes during the school year. First, Florida's implementation of the class size amendment (CSA) will be based on the number of students in individual classrooms offering core-curricula courses beginning in the 2008-2009 school year. Second, for highly rigorous courses with limited student enrollment, such as AP Calculus or IB History of the Americas, it may be difficult for a school to accommodate both a student's scheduling preferences and a parent's request that siblings be placed in separate classrooms.<sup>32</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

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<sup>30</sup> Florida Department of Education, *supra* note 21, at 3.

<sup>31</sup> *Id.* at 2.

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

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE recommends that the bill be clarified to address the difference in schedules at elementary schools (grades) and secondary schools (subjects).<sup>33</sup> For example, a high school class may enroll students in both grades 11 and 12. The bill currently specifies that a school is not required to place multiple birth siblings in separate classrooms if the request requires the school district to add an additional class to the "grade level." The department recommends that the bill specify that a school is not required to place multiple birth siblings in separate classrooms if the request requires the school district to add an additional class to the "school."<sup>34</sup>

D. STATEMENT OF THE SPONSOR

Representative Heller submitted the following sponsor statement:

The Florida DOE is focusing on the parents "separating" their multiple birth children (MBC) in the school and its undetermined impact. When in reality, this bill receives countless communications from parents who are being denied by the local schools their request to have their MBC placed together. Most parents of MBC are thinking about their children's placement upon entering preschool. Parents are told by the preschools that the elementary school will separate their children; so they should prepare for this inevitability.

We agree with the assertion that there is no policy mandating separation of MBC entering school. However, our experiences are different. We are told by administrators that separating our MBC is what is best for them. Many parents have tried sharing the research mentioned in the bill analysis with these administrators but to no avail. They then turn to the school superintendent for an intervention on their behalf. Often, superintendents will not override decisions made by the principal in charge.

The quote on page 4 of the analysis (see [text accompanying] footnote 14) was incomplete regarding the Hay and Preedy's concerns over the Minnesota Law. Listed below is the unabridged text from Hay and Preedy's "Meeting the Educational Needs of Multiple Birth Children":

The fact that the Minnesota State legislature found it necessary in 2005 to pass a law that parents should be the ones to ultimately decide if twins or higher multiples should be in the same class is both progressive but a concern, both because of the need for such a ruling and also because it fails to take into account the many issues in deciding whether or not to separate.

There is a framework school policy available at [www.twinsandmultiples.org](http://www.twinsandmultiples.org), which guides schools to have a flexible approach, assessing and meeting the needs of the children as individuals, while also taking into account the special multiple relationship. The key message is that with understanding and where

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<sup>33</sup> *Id.* at 3.

<sup>34</sup> *Id.*



necessary support, multiple birth children can make good progress in school enjoying and celebrating the fact that they are twins or higher multiples.<sup>35</sup>

As the research quoted in the analysis states, a flexible policy with parental input is best. Since parents are not feeling their input is valued and heard at the local school level, this bill is advocating this bill so that they will be heard and their choice granted. One size does not fit all. That is why the bill language includes both options. Parents know what is best for their children's emotional, psychological, social and educational needs. This bill will safeguard individual liberty and most importantly empower families to do what is best for their children.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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<sup>35</sup> Hay & Preedy, *supra* note 11, at 401.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 251**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Council/Committee hearing bill: K-12

Representative(s) Jordan offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 1003.451, Florida Statutes, is created to read:

1003.451 Junior Reserve Officers' Training Corps; military recruiters; access to public school campuses.--

(1) A school district may not ban any branch of the United States Armed Forces or the United States Department of Homeland Security from establishing, maintaining, or operating a unit of the Junior Reserve Officers' Training Corps at a public high school in the district.

(2) (a) A school district shall allow a student attending a public high school in the district to enroll in the Junior Reserve Officers' Training Corps at another public high school in the district unless:

1. The student's school offers the Junior Reserve Officers' Training Corps for any branch of the United States Armed Forces or United States Department of Homeland Security;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23 2. The student does not meet the Junior Reserve Officers'  
24 Training Corps' minimum enrollment qualifications; or

25 3. Scheduling of the student's courses of study do not  
26 allow the student to attend the Junior Reserve Officers'  
27 Training Corps at another public high school in the district.

28 (b) This subsection does not require a school district to  
29 provide transportation for a student to attend the Junior  
30 Reserve Officers' Training Corps at another public high school  
31 in the district.

32 (3)(a) A school district shall, as required in 20 U.S.C.  
33 s. 7908(a)(3), grant military recruiters of the United States  
34 Armed Forces and United States Department of Homeland Security  
35 the same access to secondary school students, and to school  
36 facilities and grounds, that the district grants to  
37 postsecondary educational institutions or prospective employers  
38 of students.

39 (b) A school district shall, as required in 20 U.S.C. s.  
40 7908(a)(1), grant military recruiters access to the names,  
41 addresses, and telephone listings of secondary school students,  
42 except, the district shall comply with a student's or parent's  
43 request under 20 U.S.C. s. 7908(a)(2) or s. 1022.22(3)(d) not to  
44 release the student's information without prior written parental  
45 consent.

46 (4) The State Board of Education shall enforce this  
47 section under s. 1008.32.

48 (5) The State Board of Education may adopt rules under ss.  
49 120.536(1) and 120.54 to administer this section.

50 Section 2. Section 1004.09, Florida Statutes, is created  
51 to read:

Amendment No. (for drafter's use only)

52       1004.09 Senior Reserve Officers' Training Corps; military  
53 recruiters; access to community college and state university  
54 campuses.--

55       (1) A community college or state university may not ban,  
56 to the extent prohibited in 10 U.S.C. s. 983(a)(1), any branch  
57 of the United States Armed Forces from establishing,  
58 maintaining, or operating a unit of the Senior Reserve Officers'  
59 Training Corps at the college or university.

60       (2) (a) A community college or state university shall, to  
61 the extent required in 10 U.S.C. s. 983(b)(1), grant military  
62 recruiters of the United States Armed Forces and United States  
63 Department of Homeland Security the same access to the college's  
64 or university's students, and to campus facilities and grounds,  
65 that the college or university grants to other employers.

66       (b) A community college or state university shall, to the  
67 extent required in 10 U.S.C. s. 983(b)(2), grant military  
68 recruiters access to the names, addresses, telephone listings,  
69 dates and places of birth, levels of education, academic majors,  
70 degrees received, and most recent educational institutions  
71 enrolled in by the college's or university's students.

72       Section 3. This act shall take effect July 1, 2008.

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76                   **T I T L E   A M E N D M E N T**

77       Remove the entire title and insert:

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79                   A bill to be entitled  
80       An act relating to Reserve Officers' Training Corps  
81       programs; creating s. 1003.451, F.S.; prohibiting a school  
82       district from banning a Junior Reserve Officers' Training

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

83 Corps unit in certain schools; requiring a school district  
84 to allow a student, under certain circumstances, to enroll  
85 in the Junior Reserve Officers' Training Corps at another  
86 school; specifying that a school district is not required  
87 to provide transportation for a student enrolling in the  
88 Junior Reserve Officers' Training Corps at another school;  
89 requiring a school district to grant military recruiters  
90 certain access to students, school facilities and grounds,  
91 and certain student information; providing for  
92 enforcement; providing for the adoption of rules by the  
93 State Board of Education; creating s. 1004.009, F.S.;

94 prohibiting a community college or state university from  
95 banning, to the extent prohibited by federal law, a Senior  
96 Reserve Officers' Training Corps unit; requiring a  
97 community college or state university, to the extent  
98 required by federal law, grant military recruiters certain  
99 access to students, campus facilities and grounds, and  
100 certain student information; providing an effective date.

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A bill to be entitled  
 An act relating to public secondary schools; creating s.  
 1003.451, F.S.; prohibiting any school district or public  
 secondary school from prohibiting ROTC units on campus,  
 preventing a student from enrolling in an ROTC unit at  
 another educational institution, or preventing military  
 recruiters from having certain access to students;  
 providing for enforcement; providing for the adoption of  
 rules by the State Board of Education; providing an  
 effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1003.451, Florida Statutes, is created  
 to read:

1003.451 Prohibiting school districts or schools from  
 preventing ROTC access to campus; providing for enforcement by  
 the State Board of Education.--

(1) A school district or public secondary school may not  
 have a policy or practice that prohibits or in effect prevents:

(a) The maintaining, establishing, or operation of a unit  
 of the Reserve Officer Training Corps of any branch of the  
 United States Armed Forces at the school;

(b) A student at the school from enrolling in a unit of  
 the Reserve Officer Training Corps at another educational  
 institution; or

(c) Military recruiters from having the same access to the  
 school's students as is provided by the school to postsecondary

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29 | educational institutions or to prospective employers of those  
30 | students.

31 | (2) The State Board of Education shall enforce this  
32 | section pursuant to s. 1008.32.

33 | (3) The State Board of Education shall adopt rules to  
34 | administer this section.

35 | Section 2. This act shall take effect July 1, 2008.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 251 Public Secondary Schools

SPONSOR(S): Jordan

TIED BILLS: IDEN./SIM. BILLS: SB 574

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Gillespie 	Ahearn 
2) Schools & Learning Council			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

House Bill 251 prohibits a school district or public secondary (grades 6-12) school from preventing a Reserve Officer Training Corps (ROTC) unit from operating at the school, preventing students from enrolling in a ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill directs the State Board of Education to adopt rules and enforce the bill's provisions.

The bill raises several drafting issues (**see III. COMMENTS**).

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill prohibits school districts and public secondary schools from preventing the operation of ROTC units or from preventing students from enrolling in a ROTC unit at another educational institution.

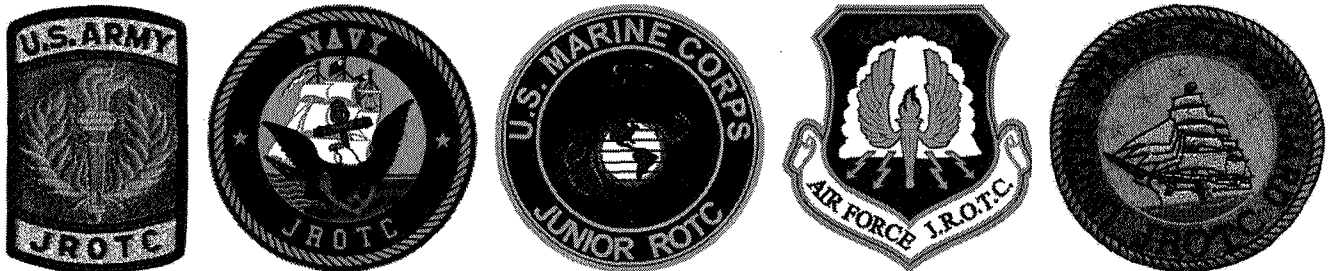
Empower Families: The bill prohibits school districts and public secondary schools from preventing students from enrolling in a ROTC unit at another educational institution.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

##### ***Junior Reserve Officers' Training Corps***

The U.S. Congress authorizes each military department to establish Junior Reserve Officers' Training Corps (JROTC) units at public and private secondary educational institutions that apply to the respective military department and meet federal standards and criteria.<sup>1</sup> The purpose of JROTC is "to instill in students ... the values of citizenship, service to the United States, and personal responsibility and a sense of accomplishment."<sup>2</sup> The U.S. Army, Navy, Marine Corps, and Air Force have each established JROTC programs. In addition, the first U.S. Coast Guard JROTC was established in 1991 at the Maritime and Science Technology Academy (MAST Academy) in Miami, Florida.



The U.S. Department of Defense has issued instructions for JROTC units.<sup>3</sup> The instructions specify that, to enroll in a JROTC unit, students shall:

- Be selected by the JROTC instructor with the approval of the school principal or his or her representative;
- Maintain acceptable standards of academic achievement and an academic standing that warrants at least normal progression leading to graduation;
- Maintain acceptable standards of conduct as defined by the military department;
- Be in grade 8 or above, with certain exceptions; and

<sup>1</sup> 10 U.S.C. § 2031(a)(1).

<sup>2</sup> 10 U.S.C. § 2031(a)(2).

<sup>3</sup> U.S. Department of Defense, *Junior Reserve Officers' Training Corps (JROTC) Program, Enclosure E2 (Procedures for the Establishment of JROTC at Schools), section E2.3 (Eligibility of Students), Instruction No. 1205.13, 9* (Feb. 6, 2006), available at <http://www.dtic.mil/whs/directives/corres/pdf/120513p.pdf> (last visited Jan. 28, 2008) [hereinafter *JROTC Instruction*].

- Meet other qualifying participation criteria prescribed by the military department (for example, the U.S. Army JROTC requires participating students to be physically able to participate in the JROTC's physical education program.<sup>4</sup>)

The JROTC instructions also specify that students with disabilities who have an Individualized Education Plan (IEP) or Section 504 Accommodation Plan may enroll in a JROTC unit, even if the students are otherwise ineligible under these enrollment requirements.<sup>5</sup>

According to the Florida Department of Education (DOE), there are currently six ROTC Major Areas of Interest and 28 ROTC courses in the state's *Course Code Directory* for high schools to offer (9 for Air Force, 4 for Army, 4 for Navy, 4 for Marine Corps, and 7 for Coast Guard). Based on attendance data from the 2006-2007 school year, DOE reports that there were 31,590 students enrolled in ROTC classes in 286 schools in almost all districts throughout the state. The school districts not offering ROTC courses included Calhoun, Franklin, Glades, Hendry, Jackson, Lafayette, and Madison counties. In the 2006-2007 school year, there were no high school students who were dual enrolled in a community college ROTC course.<sup>6</sup>

Florida law allows students who complete 2 years in a ROTC class to simultaneously satisfy the one-credit graduation requirement in physical education and the one-credit graduation requirement in performing arts (total of two credits).<sup>7</sup>

In addition to JROTC programs, the military departments have also established ROTC units on college and university campuses. These programs are known as Senior ROTC.<sup>8</sup>

### ***Military Recruitment on School Campuses***

On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind (NCLB) Act of 2001*.<sup>9</sup> Among its provisions, the NCLB act established several provisions regarding the access of military recruiters to students and student recruiting information:

- ***Access to student recruiting information.***—Each school district receiving certain federal funds under the NCLB act must provide, on a request made by military recruiters, access to secondary school students' names, addresses, and telephone listings.
- ***Consent.***—A secondary school student, or the parent of the student, may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the school district shall notify parents of the option to make a request and shall comply with any request.
- ***Same access to students.***—The school district must provide military recruiters with the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of the students.<sup>10</sup>

<sup>4</sup> U.S. Army Cadet Command, *Junior Reserve Officers' Training Corps Program: Organization, Administration, Operation, Training, and Support, Cadet Command Regulation 145-2, section 3-11 (Enrollment Requirements) 17-18* (July 1, 2007), available at <https://www.usarmyjrotc.com/jrotcRes/downloads/CCR145-2.pdf> (last visited Jan. 28, 2008).

<sup>5</sup> *JROTC Instruction*, *supra* note 3, at 9 (paragraph E2.3.3).

<sup>6</sup> Florida Department of Education, *2008 Agency Bill Analysis of HB 251, 2* (Dec. 14, 2007).

<sup>7</sup> Section 1003.428(2)(a)6., F.S.,

<sup>8</sup> *See, e.g.*, 10 U.S.C. §§ 2101-2111b.

<sup>9</sup> Public Law 107-110 (2002).

<sup>10</sup> *Id.* at § 9528 (codified at 20 U.S.C. § 7908).

Implementing provisions of the federal *Family Educational and Privacy Rights Act (FERPA)*,<sup>11</sup> Florida law allows a public school to publicly release “directory information”<sup>12</sup> about its students, but requires the school to give public notice of the categories of information it designates as directory information and allow a reasonable period of time for a parent or student to inform the school in writing that the information should not be released.<sup>13</sup>

According to DOE, the level of access to public schools for military recruiters is determined at the local level.<sup>14</sup> Some public schools restrict recruiters on campus to certain events, while other schools do not allow recruiters of any kind on campus. Many high schools require recruiters to have pre-scheduled appointments.<sup>15</sup>

#### Proposed Changes:

The bill prohibits a school district or public secondary (grades 6-12)<sup>16</sup> school from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill includes several drafting issues (**see III. COMMENTS**).

The bill directs the State Board of Education to enforce the bill’s provisions under section 1008.32, F.S., which allows the state board to take the following actions if the state board determines that a district school board is unwilling or unable to comply with law or state board rule:

- Report to the Legislature that the school district is unwilling or unable to comply with law or state board rule and recommend action to be taken by the Legislature;
- Reduce the discretionary lottery appropriation until the school district complies with the law or state board rule;
- Withhold the transfer of state funds, discretionary grant funds, or any other funds specified as eligible for this purpose by the Legislature until the school district complies with the law or state board rule;
- Declare the school district ineligible for competitive grants; or
- Require monthly or periodic reporting on the situation related to noncompliance until it is remedied.

The bill requires the State Board of Education to adopt rules to administer the bill’s provisions.

The bill provides an effective date of July 1, 2008.

#### C. SECTION DIRECTORY:

Section 1. Creates section 1003.451, F.S., which prohibits school districts and schools from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at

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<sup>11</sup> 20 U.S.C. § 1232g(a)(5).

<sup>12</sup> Section 1002.22(2)(d), F.S., defines “directory information” as a student’s “name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.”

<sup>13</sup> Section 1002.22(3), F.S. (flush-left provisions following § 1002.22(3)(d)14., F.S.).

<sup>14</sup> Florida Department of Education, *supra* note 6, at 2.

<sup>15</sup> *Id.*

<sup>16</sup> The Florida Secondary School Redesign Act (s. 1003.413(1), F.S.) specifies that “[s]econdary schools are schools that primarily serve students in grades 6 through 12.”

another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

Section 2. Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The Florida Department of Education (DOE) estimates that the bill would require "increased workload expenses [for DOE] by an unknown amount to survey and identify districts that were in compliance and to enforce compliance for others."<sup>17</sup> Accordingly, the fiscal impact is indeterminate but appears to be insignificant.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

According to DOE, the bill could create a negative fiscal impact on school districts if the bill requires the districts to incur the expense of transportation and additional planning to assure that students could complete required coursework by their scheduled graduation.<sup>18</sup> If the bill is amended to clarify that school districts are not required to provide transportation for students enrolling in JROTC units at other schools (**see III. COMMENTS**), the bill's fiscal impact appears to be insignificant.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

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<sup>17</sup> Florida Department of Education, *supra* note 6, at 3.

<sup>18</sup> *Id.*

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill directs the State Board of Education to adopt rules to administer the bill's provisions. The state board's general grant of rulemaking authority is found in section 1001.02(1), F.S.:

The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System, and it shall focus on high-level policy decisions. It has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it for the improvement of the state system of K-20 public education except for the State University System.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill prohibits a school district or public secondary school from preventing an ROTC unit from operating at the school. The bill does not distinguish whether it applies to Junior ROTC (secondary schools), Senior ROTC (postsecondary educational institutions), or both programs.

The bill also prohibits a school district or public secondary school from preventing students from enrolling in a ROTC unit at "another educational institution." This provision is unclear as to whether a school district or public secondary school would be required to:

- Permit a student to enroll in a Junior ROTC unit at a private school;
- Permit a student to enroll in a Senior ROTC unit at a community college or state university (through, for example, a dual-enrollment program);
- Permit a student to enroll in another school's Junior ROTC unit, even though the student's assigned school operates a Junior ROTC unit;
- Admit a student in a public school's Junior ROTC unit, even though the student does not otherwise meet the JROTC unit's enrollment criteria;
- Permit a student to transfer enrollment to another public school that operates a Junior ROTC; and
- Provide transportation between schools for students enrolling in a Junior ROTC unit in another school.

**D. STATEMENT OF THE SPONSOR**

Waived by sponsor due to time constraints.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 335

COUNCIL/COMMITTEE ACTION

ADOPTED                                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED                   \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION               \_\_\_ (Y/N)  
FAILED TO ADOPT                       \_\_\_ (Y/N)  
WITHDRAWN                              \_\_\_ (Y/N)  
OTHER                                    \_\_\_\_\_

1 Council/Committee hearing bill: Committee on K-12

2 Representative(s) Bullard offered the following:

3  
4       **Amendment (with title amendment)**

5       Remove everything after the enacting clause and insert:

6       Section 1. Paragraph (m) is added to subsection (2) of  
7 section 1006.07, Florida Statutes, to read:

8       1006.07 District school board duties relating to student  
9 discipline and school safety.—The district school board shall  
10 provide for the proper accounting for all students, for the  
11 attendance and control of students at school, and for proper  
12 attention to health, safety, and other matters relating to the  
13 welfare of students, including:

14       (2) CODE OF STUDENT CONDUCT.—Adopt a code of student  
15 conduct for elementary schools and a code of student conduct for  
16 middle and high schools and distribute the appropriate code to  
17 all teachers, school personnel, students, and parents, at the  
18 beginning of every school year. Each code shall be organized and  
19 written in language that is understandable to students and  
20 parents and shall be discussed at the beginning of every school  
21 year in student classes, school advisory council meetings, and  
22 parent and teacher association or organization meetings. Each



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

23 code shall be based on the rules governing student conduct and  
24 discipline adopted by the district school board and shall be  
25 made available in the student handbook or similar publication.

26 Each code shall include, but is not limited to:

27 (m) A prohibition against a student wearing and exposing  
28 below-waist underwear while on the grounds of a public school in  
29 a manner that exposes or exhibits the student's covered or  
30 uncovered sexual organs in a vulgar and indecent manner. A  
31 student found in violation of this prohibition is subject to the  
32 following penalties: for a first offense, a student shall be  
33 given a verbal warning, and the school principal, or principal's  
34 designee, shall call the student's parents; for a second  
35 offense, a student shall be suspended from school pursuant to  
36 s. 1003.01(5)(b), for 3 days, and the school principal, or  
37 principal's designee, shall call the student's parents and send  
38 them a written letter regarding the student's suspension; for a  
39 third offense, the student shall be suspended from school  
40 pursuant to s. 1003.01(5)(b), for 10 days, and the school  
41 principal, or principal's designee, shall meet with the  
42 student's parents; and for a fourth or subsequent violation, the  
43 student shall be suspended from school pursuant to s.  
44 1003.01(5)(a).

45 Section 2. This act shall take effect on July 1, 2008.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

An act relating to the indecent wearing of below-waist  
underwear; amending s. 1006.07, F.S.; prohibiting a student from  
exposing below-waist underwear in a specified manner while on  
the grounds of a public school; providing penalties for a  
student who violates the prohibition; providing an effective  
date.

1                   A bill to be entitled  
 2           An act relating to the indecent wearing of below-waist  
 3           underwear; prohibiting a student from exposing below-waist  
 4           underwear in a specified manner while on the grounds of a  
 5           public school; providing penalties; providing an effective  
 6           date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Exposure of undergarments.--

11           (1) A student may not wear and expose below-waist  
 12 underwear while on the grounds of a public school in a manner  
 13 that exposes or exhibits one's covered or uncovered sexual  
 14 organs in a vulgar and indecent manner.

15           (2) For a first offense, a student who violates this  
 16 section shall be given a verbal warning, and the school  
 17 principal shall call the student's parents. For a second  
 18 offense, a student shall be suspended from school pursuant to s.  
 19 1003.01(5)(b), Florida Statutes, for 3 days, and the school  
 20 principal shall call the student's parents and send them a  
 21 written letter regarding the student's suspension. For a third  
 22 offense, the student shall be suspended from school pursuant to  
 23 s. 1003.01(5)(b), Florida Statutes, for 10 days, and the school  
 24 principal shall meet with the student's parents. For a fourth or  
 25 subsequent violation, the student shall be suspended from school  
 26 pursuant to s. 1003.01(5)(a), Florida Statutes.

27           Section 2. This act shall take effect July 1, 2008.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 335 Indecent Wearing of Below-Waist Underwear

SPONSOR(S): Bullard and others

TIED BILLS: IDEN./SIM. BILLS: SB 302

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Kutasi 	Ahearn 
2) Schools & Learning Council			
3)			
4)			
5)			

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SUMMARY ANALYSIS

HB 335 prohibits students from “wear[ing] and expos[ing] below-waist underwear while on the grounds of a public school in a manner that exposes or exhibits one’s covered or uncovered sexual organs.” The bill provides disciplinary measures to be imposed upon a student for violating the bill’s provisions.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

The origin of wearing pants below the waist, otherwise known as "sagging," is often believed to result from ill-fitting prison clothing.<sup>1</sup> In prison, belts are forbidden for safety reasons and clothing is not tailored to fit individual inmates, resulting in saggy pants.<sup>2</sup>

##### **Present Situation**

Florida law requires, among other things, that a district school board

[i]n accordance with the provisions of chapters 1003 and 1006, provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.<sup>3</sup>

Furthermore, Florida law requires a district school board to

##### (1) CONTROL OF STUDENTS.—

(a) Adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and decide all cases recommended for expulsion ....

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year.<sup>4</sup>

Finally, a district school board may exercise supplemental powers and duties, such as

adopt programs and policies to ensure the safety and welfare of individuals, the student body, and school personnel, which programs and policies may:

(b) Require uniforms to be worn by the student body, or impose other dress-related requirements, if the district school board finds that those requirements are necessary for the safety or welfare of the student body or school personnel.<sup>5</sup>

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<sup>1</sup> Katie Menzer, *Underwear trend may be bottoming out*, The Dallas Morning News, Aug. 30, 2006, available at [www.khou.com/topstories/stories/khou060830\\_ac\\_saggypants.4d67fcd2.html](http://www.khou.com/topstories/stories/khou060830_ac_saggypants.4d67fcd2.html).

<sup>2</sup> *Id.*

<sup>3</sup> Fla. Stat. §1001.42(6)(a)

<sup>4</sup> Fla Stat. §1006.07

<sup>5</sup> Fla. Stat. §1001.43(1)(b)

Other school boards have addressed this issue. For example, on December 10, 2007, the Atlanta School Board voted unanimously to ban students from wearing sagging pants that expose underwear.<sup>6</sup>

Similarly, Opa-locka, Florida, along with cities in Louisiana and Georgia, have enacted ordinances prohibiting sagging pants on all city property.<sup>7</sup> More particularly, Opa-locka prohibits sagging in “city parks, the library and other municipal buildings.”<sup>8</sup>

Florida law does not specifically prohibit the exposure of undergarments by students at public schools.

### **Effects of Proposed Changes**

The bill creates an unnumbered section of law that prohibits students from “wear[ing] and expos[ing] below-waist underwear while on the grounds of a public school in a manner that exposes or exhibits one’s covered or uncovered sexual organs in a vulgar and indecent manner;” for example:



A student found in violation of the bill’s provisions is subject to the following disciplinary actions:

- For a first offense, a verbal warning and telephone call by the school principal to the student’s parents;
- For a second offense, a three-day in-school suspension<sup>9</sup>, telephone call by the school principal to the student’s parents, and a written letter regarding the student’s suspension;
- For a third offense, a ten-day in-school suspension and the school principal must meet with the student’s parents; and
- For any subsequent violations, an out-of-school suspension<sup>10</sup> for a period not to exceed ten school days.

<sup>6</sup> *Atlanta School Board Unanimously Bans Saggy Pants*, The Associated Press, Dec. 10, 2007, available at <http://www.foxnews.com>

<sup>7</sup> *City Unlikely to Pass Saggy Pants Ban*, The South Florida Sun Sentinel, Nov. 19, 2007, available at <http://tallahassee.com/legacy/special/blogs/2007/11/city-unlikely-to-pass-saggy-pants-ban.html>; see also Niko Koppel, *Are Your Jeans Sagging? Go Directly to Jail.*, N.Y. Times, Aug. 30, 2007, available at <http://www.nytimes.com>

<sup>8</sup> Laura Parker, *Several U.S. Cities Snapping Over Baggy Pants*, USA Today, Oct. 14, 2007, available at [http://www.usatoday.com/news/nation/2007-10-14-Baggy\\_N.htm](http://www.usatoday.com/news/nation/2007-10-14-Baggy_N.htm).

<sup>9</sup> Fla. Stat. §1003.01(5)(b) defines “in-school suspension” as, “the temporary removal of a student from the student’s regular school program and placement in an alternative program, such as that provided in s.1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days.”

<sup>10</sup> Fla. Stat. §1003.01(5)(a) defines “suspension,” also referred to as “out-of-school suspension” as, “the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal’s designee, for a period not to exceed 10 school days and remanding of the student to the custody of the student’s parent with specific homework assignments for the student to complete.”

C. SECTION DIRECTORY:

This bill creates an unnumbered section of law that effects student dress code requirements.

**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:

A school district may experience an increase in in-school suspensions and thus costs associated therewith. These costs, although indeterminate, should not be significant.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

This bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Public school students maintain a certain degree of freedom of speech within the classroom context that is balanced against the need to foster an appropriate educational atmosphere free from undue disruptions.<sup>11</sup> The wearing of a particular type of style of clothing is not usually considered expressive conduct and not labeled as "speech."<sup>12</sup> Florida courts have not specifically addressed the constitutionality of school dress codes prohibiting "sagging." However, a U.S. District Court in New Mexico found wearing sagging pants was not "speech" and not subject to First Amendment protection.<sup>13</sup>

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In order to provide adequate notice to students and parents of the implementation of the provisions of this bill, school districts will need to include the bill's provisions in its Code of Student Conduct. Therefore, it appears that an appropriate placement of the bill's provisions may be in s.1006.07(2), F.S., pertaining to the Code of Student Conduct.

D. STATEMENT OF THE SPONSOR

Waived by sponsor due to time constraints.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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<sup>11</sup> *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

<sup>12</sup> *Id.* at 507-08.

<sup>13</sup> *Bivens v. Albuquerque Pub. Sch.*, 899 F. Supp. 556 (USDC NM 1995).