

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Education Pre-K - 12 Appropriations

**BILL:** CS/SB 1718

**INTRODUCER:** Education Pre-K - 12 Committee and Senator Benacquisto

**SUBJECT:** Parent Empowerment in Education

**DATE:** January 24, 2012      **REVISED:** 2/29/2012

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>deMarsh-Mathues</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Armstrong</u>	<u>Hamon</u>	<u>BEA</u>	<b>Fav/1 Amendment</b>
3.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill creates the Parent Empowerment Act to expand the list of rights provided to K-12 students and parents. The bill also provides options to parents when a school or a teacher's performance is unsatisfactory.

School districts are required to notify parents that they may, through petition process, select and submit to the district school board a new school turnaround option when the student performance in a school subject to an existing turnaround option has failed to improve. Safeguards are included for the accuracy and credibility of the petition process to provide majority vote, require public meetings, and authorize signature verification.

In cases where a school district fails to adopt a petition selection, it still must submit the petition option, along with its own, to the State Board of Education (SBE). The SBE makes the final determination.

School districts are also required to notify parents if the classroom teachers assigned to their children have received poor performance ratings. Upon request, parents would also have the

right to receive actual performance evaluations of any classroom personnel involved in their child's education.

This bill makes available an option of virtual instruction by an "effective" or "highly effective" instructor for a student assigned to a classroom teacher who:

- Is teaching out-of-field; or
- Has received poor performance evaluations, defined as two consecutive annual performance evaluation ratings of unsatisfactory, two annual performance evaluation ratings of unsatisfactory within a 3-year period, or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory.

Annual notice must be provided to parents when a child is assigned to an out-of-field classroom teacher, and that virtual instruction is available.

This bill substantially amends sections 1001.10, 1002.20, 1002.32, 1008.33, 1012.2315, creates section 1003.07, and repeals section 1012.42 of the Florida Statutes.

## II. Present Situation:

### **Differentiated Accountability**<sup>1</sup>

Differentiated accountability is the system used by Florida to meet conditions for participation in the federal Elementary and Secondary Education Act<sup>2</sup> that requires states to hold public schools and school districts accountable for making adequate yearly progress toward meeting state proficiency goals. Schools are categorized based upon the school's grade<sup>3</sup> and the level and rate of change in student performance in reading and mathematics, disaggregated into student subgroups.<sup>4</sup>

The law requires the Department of Education (DOE) to provide the most intensive intervention strategies to the lowest performing schools, which are defined as schools that have received:<sup>5</sup>

- An "F" grade in the most recent school year and 4 of the 6 previous years; or

<sup>1</sup>Last fall, the U.S. Department of Education offered states the opportunity to request flexibility from certain requirements of the 1965 Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001, and the associated regulatory, administrative, and reporting requirements in exchange for rigorous and comprehensive state-developed plans. The stated purpose of the waiver is to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. In response to this initiative, Florida requested and was granted a waiver of 11 specific federal school accountability provisions. The waiver establishes an enhanced school grades accountability system to focus all accountability resources and attention on one system and attain college- and career-ready standards for all students.

<sup>2</sup> 20 U.S.C. ss. 6301 et seq.

<sup>3</sup> s. 1008.34, F.S., requires school grades: "A," making excellent progress, "B," making above average progress, "C," making satisfactory progress, "D," making less than satisfactory progress, or "F," failing to make adequate progress.

<sup>4</sup> ch. 2009-144, codified in s. 1008.33, F.S. Six categories, beginning with the highest performing, comprise the differentiated accountability system: Schools Not Required to Participate in Differentiated Accountability Strategies, Prevent I, Correct I, Prevent II, Correct II, and Intervene. See Rule 6A-1.099811, F.A.C.

<sup>5</sup> s. 1008.33(4)(b), F.S.

- A “D” or “F” grade in the most recent school year and with three out of four of these criteria:
  - A percentage increase of students who are not reading proficient in comparison to measurements taken 5 years ago;
  - A percentage increase of students not mathematics proficient in comparison to measurements taken 5 years ago;
  - A threshold of at least 65 percent of students whom are not reading proficient; or
  - A threshold of at least 65 percent of students whom are not mathematics proficient.

Florida law requires school districts to submit a school improvement plan to the State Board of Education in the school year after a school has ranked in the lowest-performing category. The plan must include one of the following options:<sup>6</sup>

- Conversion of the school to a district-managed turnaround school, including implementing a Commissioner of Education-approved turnaround plan that becomes the school’s improvement plan;
- Reassignment of students to another school with progress monitoring of each reassigned student;
- Closing the school and reopening the school as a charter school with a governing board that has proven effectiveness; or
- Contracting with an outside entity that has a proven record of effectiveness to operate the school.

### **Teacher Assignments**

In 2009, the Florida Legislature enacted legislation to address the quality of teachers assigned to the lowest performing schools.<sup>7</sup> School districts may not assign to these schools a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to these schools.

District school boards are required to adopt and implement plans to help teachers teaching out-of-field, and to require participation in a certification or staff development program, with priority consideration given regarding professional development. Written notification is to be provided to parents of the students.

### **Performance Evaluations**

The evaluation system for instructional personnel and school-based administrators must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment who need improvement, developing; and unsatisfactory.<sup>8</sup>

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<sup>6</sup> s. 1008.33(5)(a), F.S.

<sup>7</sup> Ch. 2009-144, L.O.F., codified in section 1012.2315, F.S. Prior to this change, the provision only applied to schools designated as “D” or “F” schools. The lowest performing schools are defined in section 1008.33, F.S.

<sup>8</sup> Ch. 2011-1, L.O.F., codified in s. 1012.34(2)(e), F.S.

Current law requires the DOE to annually publish online performance rating data, to constitute the percentage of classroom teachers, instructional personnel and school administrators receiving each performance rating aggregated by district and school.<sup>9</sup>

Also, school districts are required to annually report ratings to those parents whose children are assigned to a classroom teacher or school administrator who has received two consecutive annual performance reevaluation ratings of unsatisfactory; two annual performance evaluation ratings of unsatisfactory within three years; or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory.<sup>10</sup>

### III. Effect of Proposed Changes:

Parents would be authorized, through a petition, to implement a second school improvement option, provided that a sufficient percentage of parents support the petition. This expands current law which is school district-directed regarding determination of the plan option. Still, school districts would retain authority to select the initial turnaround option.

The petition process would involve the following:

- A school district is required to annually notify, in writing, parents of eligible students when a school has failed to improve performance while under an existing turnaround option, and that they have the option, through petition, to submit a different choice;
- Although a petition choice is non-binding on the district school board, the district school board must submit the option, along with its own choice, to the SBE, which would make the final determination;
- Provisions are included requiring that a majority of the parents of the students at a school approve the turnaround petition (indicating greater than one-half of eligible parents approve the plan), ensuring a public meeting and authorizing verification of signatures.
- Signatures on a petition for a school turnaround option are required to be based upon one parent per eligible student, defined as a student actually enrolled in the school or a student who will be attending the school in the following year; and
- Regarding a timeline, parental notice must be provided within 30 calendar days after the DOE notifies the school district that a different remedy must be implemented, with implementation of the second option to begin the following school year.

The bill requires the SBE to adopt rules to establish standards for verifying petition signatures. However, districts are not required to verify signatures. For students being taught by an out-of-field teacher, virtual instruction would be available from an in-field teacher. For students currently instructed by personnel receiving poor performance evaluation ratings, virtual instruction would be available from effective or highly effective teachers.

The provisions in the bill regarding assistance to out-of-field teachers are similar to those in current law. The bill would additionally require that the district school board implement

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<sup>9</sup> s. 1002.2315(5)(a), F.S.

<sup>10</sup> s. 1012.2315(5)(b), F.S.

assistance plans by rule, and that the notice inform the parent that a certified in-field teacher is available through virtual instruction.

This bill requires schools to provide students who have been taught by a teacher who received a “needs improvement” or “unsatisfactory” rating to receive instruction from a teacher with a higher rating the following year.

This bill provides parents the right to receive performance evaluations of each classroom teacher assigned to the student, pursuant to s. 1012.31, F.S., which already provides that public school employee files are public records. However, current law also makes confidential and exempt employee evaluations until the end of the school year after the school year covered in the evaluation.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

School districts may incur some additional cost associated with the parent notification requirements in the bill. The Department of Education may also incur some additional cost in reviewing appeals of turnaround options not adopted and for developing rules for the parent petition process.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K – 12 on January 24, 2012:**

This bill:

- Provides that authority for parents to initiate the petition process is triggered only after a school has failed to improve performance under a school turnaround option;
- Requires specific notice by the school district to parents of eligible students that the school has been unable to improve performance under a school turnaround option, and that parents may petition a different option;
- Limits signatures to one parent per eligible student and defines the term “eligible student;”
- Requires the SBE to adopt standards for signature verification;
- Authorizes, but does not require, the district school board to adopt the petition-directed turnaround option and provides that where the district school board rejects the petition selection, that both choices are to be submitted to the SBE;
- Details the rule adoption required of the SBE;
- Provides that when students instructed in the classroom by out-of-field instructors opt for in-field virtual instruction, the instructors must have annual performance ratings of at least the level of “effective;” and
- Clarifies that the prohibition on a student being taught in two consecutive years by instructors with poor performance evaluation ratings in the same subject area refer only to classroom teaching.

- B. **Amendments:**

**Barcode 519440 by Budget Subcommittee on Education Pre-K – 12 Appropriations on February 28, 2012:**

This amendment:

- Permits parents to make the initial selection of a turnaround plan, with the provisions of the bill inapplicable to schools currently in intervention for the 2011-12 or the 2012-13 school year;
- Details the process for parental selection of a plan, including district notification to eligible parents, the petition signature gathering and supervision process, a public school board meeting to consider adoption, and final decision by the SBE;

- Requires the school district to verify a majority of petition signatures, and specifies that the method for verification would be comparison of petition signatures to student records;
- Specifies resolving parental disagreements regarding the turnaround option;
- Considers a petition signature as a certification that a parent intends to enroll his or her child in the school if the turnaround option is implemented;
- Prohibits signature solicitors from being paid per signature and requires disclosure of affiliated organizations upon request;
- Requires parental notification where a child is receiving classroom instruction from an out-of-field teacher or from a teacher who has received poor performance ratings, and of the availability of virtual instruction in these instances;
- Requires school district assistance to out-of-field teachers, as is provided in current law, and requires that the district adopt an assistance plan through rule;
- Clarifies that provisions addressing assistance to out-of-field teachers and parental notification of the availability of virtual instruction, apply equally to charter school teachers;
- Requires rules adopted by the SBE to include sample petition forms for each turnaround option, and to address the following:
  - Presentation of the form;
  - Timelines for petition signature solicitation, submission to the district, and school board meeting consideration; and
  - Alternative ways to validate signatures.
- Requires a school district to provide classroom teacher performance evaluations to parents upon request; and
- Provides that where a student received instruction by a classroom teacher with a rating of “needs improvement” or “unsatisfactory” for a school year, the school cannot in the following year place the student in a class of the same subject with instruction by a teacher who received those ratings.