

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 Committee on Education Pre-K - 12

BILL: CS/SB 1480

INTRODUCER: Committee on Education Pre-K - 12 and Senator Stargel

SUBJECT: Extracurricular Activities

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1480 affects governance structure and accountability requirements of the Florida High School Athletic Association (FHSAA), and substantially revises the student eligibility requirements.

Specifically, the bill revises the FHSAA governance structure by:

- Repealing provisions for a board of directors, representative assembly, committee on appeals, public liaison advisory committee, and bylaws.
- Revising the governance structure for equitable representation; and
- Creating membership requirements.

The bill revises FHSAA accountability requirements by:

- Requiring an operational audit by the Auditor General;
- Requiring a review by the Commissioner of Education on FHSAA's performance of duties in governing interscholastic athletics;
- Limiting ability to collect certain fees; and
- Providing an appeal process to resolve eligibility disputes.

In addition, the bill revises student eligibility by:

- Requiring the eligibility standards and requirements to apply on an equal basis for all students;
- Limiting the reasons a student may be declared ineligible for interscholastic athletics;

- Allowing students to transfer schools for academic and athletic purposes as long as eligibility and transfer requirements are met; and
- Allowing restrictions to prohibit the recruiting of students for athletic purposes.

The bill takes effect on July 1, 2015.

II. Present Situation:

Governing Nonprofit Organization

The Florida High School Athletic Association (FHSAA) is the designated governing nonprofit organization of athletics in Florida public schools in grades 6 through 12.¹ If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education.²

Governing Structure

The FHSAA operates as a representative democracy in which the sovereign authority is within the member schools.³ FHSAA member schools are divided along existing county lines into four administrative regions.

FHSAA's governance structure consists of a 16 member board of directors.⁴ The members of the board of directors serve terms of 3 years and are eligible to succeed themselves only once.⁵ The board is responsible for levying dues and fees, formulating administrative policies, and acting as the final decision-maker in disputes regarding student eligibility, member sanctions, and other FHSAA bylaws and policies.⁶

Bylaws

The FHSAA must adopt bylaws specifying the process and standards for eligibility determinations. The bylaws must provide the following:⁷

- Ineligibility must be established by clear and convincing evidence;
- Student athletes, parents, and schools must have notice of the initiation of any investigation or other eligibility inquiry and may present information or evidence to the investigator and to the individual making the eligibility determination;
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility; and

¹ Section 1006.20, F.S.

² Section 1006.20(1), F.S.

³ Section 1006.20(1), F.S.

⁴ The board is composed of four public member school representatives, four nonpublic member school representatives, three representatives appointed by the commissioner, two district school superintendents, two district school board members, the commissioner or designee. Section 1006.20(4)(a), F.S.

⁵ Members of the board of directors shall serve terms of 3 years and are eligible to succeed themselves only once. A member of the board of directors, other than the commissioner or his or her designee, may serve a maximum of 6 consecutive years. The FHSAA's bylaws shall establish a rotation of terms to ensure that a majority of the members' terms do not expire concurrently. Section 1006.20(4)(d), F.S.

⁶ Section 1006.20(4)(e), F.S.

⁷ Section 1006.20(2)(g), F.S.

- Determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.

The law provides specific direction to FHSAA on such eligibility matters as residency, transfer, recruiting, and medical evaluations.⁸ FHSAA has discretion to adopt bylaws on eligibility, provided they do not conflict with statutory requirements.⁹

The FHSAA must adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA's bylaws and policies.¹⁰ Major violations include, but are not limited to:¹¹

- Knowingly allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest; or
- Committing a violation of the FHSAA's recruiting or sportsmanship policies.

Appeals

The FHSAA must establish a procedure of due process which ensures each student the opportunity to appeal an unfavorable ruling with regard to his or her eligibility to compete.¹² The initial appeal is made to a committee on appeals in the administrative region where the student lives.¹³ The FHSAA bylaws establish the number, size, and composition of each committee on appeals. The bylaws specify the process and standards for eligibility determinations.¹⁴

Student Participation in Extracurricular Activities

Public Student Eligibility

To be eligible for participation in interscholastic extracurricular activities, a public high school student must:¹⁵

- Maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation; or a cumulative 2.0 GPA or above in the courses required for high school graduation.
- Execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0 in the courses required for graduation.
- Have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year.
- Maintain satisfactory conduct to be eligible to participate in interscholastic extracurricular activities.

Home Education Student Eligibility

A home education student may participate in any sport at any public high school for which the student is zoned or could attend through district or interdistrict controlled open enrollment

⁸ Section 1006.20(2)(c), F.S.

⁹ Section 1006.20(1) and (2)(a)-(c), F.S.

¹⁰ Section 1006.20(2)(f), F.S.

¹¹ *Id.*

¹² Section 1006.20(7), F.S.

¹³ *Id.*

¹⁴ Bylaw 10.4.1, FHSAA

¹⁵ Section 1006.15(3), F.S.

provisions.¹⁶ A home education student may also develop an agreement to participate at a private school.¹⁷ The student must demonstrate educational progress during the period of participation in all subjects taken in the home education program by a method of evaluation agreed upon by the parent and the school principal.¹⁸

Charter School Student Eligibility

A charter school student may participate in any sport that is not offered by the charter school, at any public high school for which the student is assigned according to district school board attendance policies or which the student could choose to attend through district or interdistrict controlled open enrollment provisions.¹⁹

Virtual School Student Eligibility

A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school in which the student would be assigned according to district policy or where the student could attend according to controlled open enrollment policies.²⁰

Private School Student Eligibility

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.²¹

A private school student may only participate at the public school in which the student first registers or is a candidate for participation by engaging in a practice.²²

Only students attending a FHSAA nonmember private school with enrollment of 125 or fewer students may participate in a public school athletic program.²³

The parents of a private school student who participates in athletics at a public school are responsible for transporting the student to and from the public school.²⁴ The student's private school, the public school where the student participates in athletics, the district school board, and the FHSAA are exempt from liability arising from any injury that occurs during such transportation.²⁵

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 1006.15(3)(d), F.S.

²⁰ Section 1006.15(2), F.S.

²¹ Section 1006.15(8), F.S.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

Student Ineligibility

A student may only be declared ineligible based upon violation of recruiting rules if the student or parent has:²⁶

- Falsified any enrollment or eligibility document; or
- Accepted an impermissible benefit, i.e., any benefit or promise not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.

The FHSAA is required to adopt bylaws to prohibit the recruitment of students for athletic purposes.²⁷ The bylaws may not:²⁸

- Limit the competition of student athletes for rule violations of their adult representatives, their school, or the school's coaches.
- Unfairly punish students for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator.
- Forfeit contests for inadvertent eligibility violations due to the actions of a coach or a school administrator.
- Forfeit contests for other eligibility violations or recruiting violations in excess of the number of contests that the coaches and adult representatives responsible for the violations are prospectively suspended.

Location of Student Eligibility

A student may participate in interscholastic athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.²⁹

The FHSAA is required to adopt bylaws for transfer eligibility requirements, unless otherwise specifically provided by statute.³⁰ The bylaws also allow the student to be eligible in the school where the student has transferred during the school year if the transfer is made by deadlines established by the FHSAA, which may not be prior to the date authorized for the beginning of practice for the sport.³¹ Transfers will be allowed pursuant to the district school board policies.³²

Insurance

Any insurance provided by district school boards for participants in extracurricular activities will cover the participating home education student.³³ If there is an additional premium for such coverage, the participating home education student shall pay the premium.³⁴

²⁶ Section 1006.20(2), F.S.; bylaw 9.1.2.3, FHSAA.

²⁷ Section 1006.20(2), F.S.

²⁸ *Id.*

²⁹ Section 1006.20(2)(a), F.S.

³⁰ Section 1006.20(2), F.S.

³¹ Section 1006.20(2), F.S.; bylaw 9.3, FHSAA.

³² Section 1006.20(2), F.S.

³³ Section 1006.15(7), F.S.

³⁴ *Id.*

III. Effect of Proposed Changes:

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Specifically, the bill revises the FHSAA governance structure by:

- Repealing provisions for a board of directors, representative assembly, committee on appeals, public liaison advisory committee, and bylaws.
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- Limiting ability to collect certain fees; and
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In addition, the bill revises student eligibility by:

- Requiring the eligibility standards and requirements to apply on an equal basis for all students;
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Governing Nonprofit Association

Governing Structure

The bill repeals statutory provisions requiring the FHSAA to have a board of directors, representative assembly, committee on appeals, a public liaison advisory committee, and bylaws.

The bill establishes a 16 member governing board comprised proportionately of representatives from:

- Traditional public schools;
- Public schools of choice;
- Private schools;
- Home education cooperatives;³⁵ and
- Parents of student athletes who are enrolled in such schools or programs.

³⁵ The bill creates and defines a "home education cooperative" as a parent-directed group of individual home education students which provides opportunities for interscholastic athletic competition to those students.

The board's membership must be equitably drawn from the various regions of the state where the association's member schools are located. Each member of the governing board must attend nonprofit governance training, which must include:

- Government in the sunshine;
- Conflicts of interest;
- Ethics; and
- Student athlete-centered decision making consistent with the guiding principles for participation in extracurricular activities.

Membership

The bill:

- Authorizes any high school in the state,³⁶ to join the FHSAA as a full-time member or to participate on a per sport basis;
- Allows a school the option to join other organizations for some sports, while maintaining membership in FHSAA for others;
- Requires the FHSAA to adopt guidelines, provide resources, and develop sports ethics training courses by an established deadline; and
- Allows for home education cooperatives to join as member schools.

Accountability

The bill requires:

- Annual operational audit of each nonprofit association, and the Auditor General to conduct an operational audit at least every 3 years.
- Commissioner of Education to review the nonprofit association's performance of duties each year through an operational audit.
- Nonprofit association designated by the commissioner to be the state's governing body for the purposes of membership in the National Federation of State High School Associations and the commissioner, with the approval of the State Board of Education, to identify another nonprofit association to govern interscholastic athletic competition if the FHSAA fails to meet the provisions of law.
- Any special event fees, sanctioning fees, including third party sanctioning fees, or contest receipts collected annually, may not exceed the actual costs to perform the function or duty of the nonprofit association which is the subject or justification for the fees.
- The FHSAA to offer spectators at an event the option of purchasing a single-day pass or multiple-day pass.

Appeals

The bill repeals the current appeal process and creates a new process which allows for eligibility issues to be resolved through an informal conference procedure. The conference must be held within 10 days after receipt of the student's request, and if the dispute is not resolved, the FHSAA must provide for a neutral third party review within 30 days. All eligibility proceedings must be conducted in the county where the student resides. A student athlete may not be declared ineligible to participate until a final decision is issued by the neutral third party.

³⁶ Any high school in the state may join FHSAA, including private schools, traditional public schools, charter schools, virtual schools, and home education cooperatives.

Student Participation in Extracurricular Activities

Student Eligibility

The bill requires the eligibility standards and requirements to apply on an equal basis for all students, including public school³⁷ or certain private school students, and may not make participation less accessible to a student enrolled in a public school of choice, an unaffiliated private school,³⁸ or a home education program.

The bill:

- Clarifies that a home education student is academically eligible to participate in extracurricular activities if he or she has a satisfactory evaluation conducted according to the home education requirements.
- Prohibits a district school board or private school from establishing policies regarding transfer student eligibility for extracurricular activities which are more stringent than the policies established by the governing nonprofit association.

Student Ineligibility

The bill limits the grounds for declaring a student ineligible to participate to:

- Failing to meet academic and conduct requirements;
- Falsifying enrollment or eligibility documents;
- Accepting of an impermissible benefit by the student or parent;
- Committing a flagrant act of unsportsmanlike conduct;
- Exhausting 4 years of athletic eligibility;
- Failing to pass a required medical exam;
- Forfeiting amateur status; or
- Failing to meet transfer requirements.

The bill prohibits the recruiting of a student for athletic purposes and the FHSAA has imposed sanctions against the individuals or member schools engaging in recruiting. The FHSAA may not punish a student athlete for an eligibility or recruiting violation perpetrated by a teammate, coach, or administrator.

Location of Student Eligibility

The bill provides for a student who is eligible in the school in which he or she first enrolls each school year to make himself a candidate for an athletic team by engaging in a practice before enrolling in the school.

The bill allows a public school student, a student attending an unaffiliated private school, or a home education student to participate in an extracurricular activity that is not offered by the student's school or home education program. Participation may occur at any public school in the

³⁷ The bill defines "public school student" to mean a student who is attending a traditional public school, charter school, magnet school, alternative school, developmental research laboratory school, other public school of choice, or public virtual school.

³⁸ The bill defines "unaffiliated private school" to mean a private school that has an enrollment of 125 or fewer students in grades 6-12 and that is not a member of the nonprofit association.

school district in which the student resides or a public school in another school district which the student could choose to attend pursuant to an interdistrict controlled open enrollment policy. A home education student may also develop an agreement to participate at a private school.

However, a student who is enrolled in an unaffiliated private school, home education program, a full-time public virtual school, or any public school that does not offer any interscholastic programs may only participate in interscholastic athletics at the public school in which the student is first registered.

The bill provides the following transfer requirements:

- A student who transfers from a home education program to a public or private school before or during the first semester of the school year is academically eligible to participate in extracurricular activities during the first semester if the student has a successful evaluation from the previous school year.
- A public school or private school student who transfers into a home education program after being declared ineligible for participation in extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one semester in a home education program.
- A public school student who transfers to a private school or another public school, or a private school student who transfers to a public school or another private school, after being declared ineligible to participate in extracurricular activities for certain grounds is ineligible to participate in such activities until the student has successfully completed one semester at the school to which he or she transfers and meets additional requirements.

Insurance

The bill requires insurance provisions to be added by a district school board for unaffiliated private school students who participate in extracurricular activities at the district public school under the same terms and conditions that apply to students enrolled in a district public school.

The bill takes effect on July 1, 2015.

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:

The bill prohibits any special event fees, sanctioning fees, including third party sanctioning fees, or contest receipts collected annually, to exceed the actual costs to perform the function or duty of the nonprofit association which is the subject or justification for the fees.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1006.15, 1006.16, 1006.19, 1006.20, and 1002.33.

IX. 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 April 15, 2015:

- Deletes the requirement in the bill for the Commissioner of Education to designate a nonprofit association to govern athletics with the approval of the State Board of Education, and the effective date of July 1, 2017.
- Retains designation in current law, Florida High School Athletic Association (FHSAA) as the governing nonprofit association for interscholastic athletics.
- Repeals the FHSAA's board of directors, representative assembly, committee on appeals, and bylaws, and instead, utilizes a governing board comprised of 16 members.
- Repeals student eligibility dispute procedures and changes the process to require the FHSAA to provide an opportunity to resolve eligibility disputes through an informal conference procedure, for review by a neutral third party, if needed.
- Expands criteria in statute for a student to be determined ineligible, including, but not limited to, flagrant act of unsportsmanlike conduct, violates substance abuse policies,

exhausted 4 years of athletic eligibility, graduated from high school, or attained maximum age.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
