

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: SB 1480

INTRODUCER: Senator Stargel

SUBJECT: Student Extracurricular Activities

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bailey	Klebacha	ED	Pre-meeting
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1480 removes the designation of Florida High School Athletic Association (FHSAA) as the governing nonprofit organization of athletics and authorizes the Commissioner of Education to assign a nonprofit association to govern athletics, with the approval of the State Board of Education by July 1, 2017. The bill provides for limited obstruction of governing policies on parental school choice and removes the barrier of school attendance zone or educational program choice for the student to participate in activities not offered by the student's school or program.

In addition, the bill:

- Establishes restrictions to prohibit recruiting of students for athletic purposes;
- Prescribes penalties and an appeals process;
- Provides for third-party arbitration of student eligibility disputes;
- Requires operational audits by the Auditor General; and
- Requires reviews by the Commissioner of Education on FHSAA's performance of duties in governing interscholastic athletics.

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

¹ Section 1006.20, F.S.

a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education.²

Governance and Board of Directors

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
- 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

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.

⁸ Section 1006.20(2)(c), F.S.

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

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.

Student Participation in Extracurricular Activities

Public Student Eligibility for Participation

To be eligible for participation in interscholastic extracurricular activities, a public high school student must:¹²

- 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 Participation

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 provisions.¹³ A home education student may also develop an agreement to participate at a private school.¹⁴ 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.¹⁵

Charter School Student Participation

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 zoned or could attend through district or interdistrict controlled open enrollment provisions.¹⁶

Virtual School Student Participation

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

¹⁰ Section 1006.20(2)(f), F.S.

¹¹ *Id.*

¹² Section 1006.15(3), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

district policy or where the student could attend according to controlled open enrollment policies.¹⁷

Private School Student Participation

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.¹⁸ Only students attending a FHSAA nonmember private school with enrollment of 125 or fewer students may participate in a public school athletic program.¹⁹ 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.²⁰

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.²¹ 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.²²

Student Ineligibility

A student may only be declared ineligible based upon violation of recruiting rules if the student or parent has:²³

- 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.²⁴ The bylaws may not:²⁵

- 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.

¹⁷ Section 1006.15(2), F.S.

¹⁸ Section 1006.15(8), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Section 1006.20(2), F.S.

²⁴ *Id.*

²⁵ *Id.*

- 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.

Transfer Requirements

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.²⁶

A student may also be eligible to participate in interscholastic athletics in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the FHSAA,²⁷ which may not be prior to the date authorized for the beginning of practice for the sport.²⁸

Although the law requires FHSAA to allow transfer eligibility in its bylaws, it authorizes each district school board and private school to adopt policies regarding such transfers.²⁹

III. Effect of Proposed Changes:

SB 1480 removes the designation of Florida High School Athletic Association (FHSAA) as the governing nonprofit organization of athletics and authorizes the Commissioner of Education to assign a nonprofit association to govern athletics, with the approval of the State Board of Education by July 1, 2017. The bill provides for limited obstruction of governing policies on parental school choice; and removes the barrier of school attendance zone or educational program choice for the student to participate in activities not offered by the student's school or program.

In addition, the bill establishes:

- Restrictions to prohibit recruiting of students for athletic purposes;
- Penalties and an appeals process;
- Third-party arbitration of student eligibility disputes;
- Operational audits by the Auditor General; and
- Reviews by the Commissioner of Education on FHSAA's performance of duties in governing interscholastic athletics.

Governing Nonprofit Association

The bill:

- Requires the Commissioner of Education, with the approval of the State Board of Education, to designate a nonprofit association to govern athletics by July 1, 2017.

²⁶ Section 1006.20(2)(a), F.S.

²⁷ The FHSAA is the designated governing nonprofit organization of athletics in Florida public schools. Section 1006.20(1), F.S.

²⁸ Section 2, ch. 2012-188, L.O.F.; 1006.20(2)(a), F.S.

²⁹ Section 1006.20(2)(a), F.S.

- Prohibits any dues, fees, including sanctioning fees, or contest receipts collected from exceeding the actual costs to perform the function or duty of the nonprofit association which is the subject or justification for the fees.
- Authorizes interscholastic competition between member schools and schools in this state or any other state which are not members of associations but are members of the National Federation of State High School Association (NFHS) or affiliate members of the NFHS.

The bill prohibits the nonprofit association from:

- Limiting competition of a student athlete prospectively for a rule violation perpetrated by the student's school or coaches or adult representatives;
- Unfairly punishing a student athlete for an eligibility violation or recruiting violation perpetrated by a teammate, coach, or administrator;
- Forfeiting a competition for an inadvertent eligibility violation unless the coach or a school administrator had known of the violation;
- Forfeiting competitions for other eligibility violations or for recruiting violations in excess of the number of competitions that the coaches and adult representative responsible for the violations are prospectively suspended; and
- Prohibiting mass distribution of untargeted mailings, electronic mailings, or printed guides or booklets.

Governing Structure

The bill changes the governance structure of the nonprofit association to:

- Require the membership to consist of equal numbers of traditional public school, public school of choice, private school, "home education cooperative representatives," and parents of student athletes who are enrolled in schools or programs.
 - The bill 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, including students in grades 6-12.
- Provide for equitable representation among the various regions of the state in which the nonprofit association's member schools are located;
- Reduce the membership of the board of directors from 16 to 9, effective October 1, 2015; and
- Require the executive director's salary to be no greater than what is set by law for the Governor and prohibit the executive director from receiving per diem and travel expenses in excess of the state rate.

The bill expands the insurance provisions provided by a district school board for participants in extracurricular activities to cover a home education student or unaffiliated private school student who participates in extracurricular activities at the district public school under the same terms and conditions that apply to a student enrolled in a district public school.

The bill establishes timelines for the existing financial audit and adds a new requirement for an operational audit by the Auditor General every 3 years for the nonprofit association. The nonprofit association must submit a report by October 1 of each year to the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives.

Appeal Process

The bill establishes an appeal process timeline for a student athlete or member school to use third-party arbitration.

Student Participation in Extracurricular Activities

The bill requires the eligibility standards and requirements to apply on an equal basis for all students, including public school or private school students, and may not make participation less accessible to a student enrolled in a public school of choice, an unaffiliated private school, or a home education program.³⁰

The bill expands high school student options to:

- Participate in any extracurricular activity in the school district where the student resides or at a public school in another school district which the student could choose through interdistrict controlled open enrollment policy.
 - Parent of a student is responsible for transporting the student to and from the school at which the student participates.
 - Nonprofit association and school entities are exempt from civil liability arising from an injury that occurs to the student during such transportation.
- Transfer schools for academic and athletic purposes.

The bill expands authority for:

- Home education students to participate in extracurricular activities at a public school in the school district in which the student resides or at a public school in another school district under an interdistrict controlled open enrollment policy.
- Charter school students to participate in an activity at a conversion charter school if the student resides within the conversion charter school's attendance zone and the activity is not provided by the student's charter school.
- Florida Virtual School students (FLVS) to participate in extracurricular activities at the public school in which the student would be assigned.

Student Transfer Requirements

The bill codifies student transfer guidelines for public, private, and home education students who plan to participate in extracurricular activities.

The bill requires the nonprofit association to establish the following requirements:

- Specify that if the authorizing date for the beginning of practice is before the first day of the grading period in which the regular season games begin, the transfer deadline may not be before the first day of the grading period;
- Require a member school to allow a student who transfers to the school after the transfer deadline to participate if the participation occurs before the start of regular season competition and does not result in the removal of another student from the particular team, sport, or activity;

³⁰ The term "public school" also includes a student of the Florida Virtual School, a full-time virtual instruction program, a virtual charter, and any other charter school. Sections 1006.20 and 1002.45, F.S.

- Permits students to transfer schools for academic and athletic purposes when applicable eligibility and transfer requirements are met.

In addition, the bill requires third-party arbitration of student eligibility disputes under the following conditions:

- Request is submitted to a neutral arbitrator;
- Costs of representation will be the responsibility of each party;
- Decision of arbitrator is final and not subject to appeal;
- Proceeding concerning student eligibility is held in county where the student resides; and
- Decision is completed within 30 days after receipt of the determination of ineligibility.

Recruiting

The bill prohibits recruiting of students for athletic purposes and prescribes penalties and an appeals process³¹ and expands major violations to include, but not be limited to:

- Colluding with specified individuals³² to prevent member or nonmember schools from scheduling competitions among themselves or from participating in nonathletic events at other member or nonmember schools.
- Establishing a due process procedure for specified individuals³³ which provides the minimum safeguards and makes appropriate provisions for the appointment of unbiased and qualified hearing officers.³⁴

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.

³¹ The bill defines “recruiting” as an effort by an employee, adult representative, or athletic department staff member to pressure, urge, or entice a student to attend the employee’s, representative’s, or staff member’s school to participate in interscholastic athletics by use of impermissible benefits.

³² Coaches, administrators, officials, faculty, athletic staff, or any other individuals engaged in representing, supporting, or promoting the athletic interests of a member school in an official capacity or unofficial, school-sanction capacity.

³³ *Id.*

³⁴ Sections 120.569 and 120.57, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

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: 1006.15, 1006.16, 1006.19, 1006.20, and 1002.33.

This bill creates an undesignated section of the Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.