

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 1302

INTRODUCER: Senator Gibson

SUBJECT: Private School Student Participation in Extracurricular Activities

DATE: April 28, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Benvenisty</u>	<u>Graf</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>
4.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1302 revises eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment.

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2017.

**II. Present Situation:**

**Student Eligibility for Interscholastic and Intrascholastic Extracurricular Activities**

Each district school board must establish, through its code of conduct, student eligibility standards and related student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities.<sup>1</sup> The code of student conduct must provide that:<sup>2</sup>

- A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school pursuant to a district school board's suspension or expulsion powers provided in law, is eligible to participate in interscholastic and intrascholastic activities.

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<sup>1</sup> Section 1006.195(1)(a), F.S.

<sup>2</sup> Section 1006.195(1), F.S.

- A student may not participate in a sport if the student participated in the same sport at another school during the school year, unless the student meets criteria specified in law.
- A student's eligibility to participate in an interscholastic or intrascholastic activity may not be affected by recruiting allegations until a final determination has been reached.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility.<sup>3</sup> The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.<sup>4</sup> Each member school must annually adopt the bylaws as the rules governing its interscholastic athletic programs, as a condition to membership in the FHSAA.<sup>5</sup> Such adoption acts as a contract between FHSAA and the member school.<sup>6</sup> Member schools that violate the bylaws are subject to disciplinary action determined to be appropriate by the FHSAA.<sup>7</sup> To be eligible for participation in interscholastic extracurricular activities under the FHSAA, a high school student<sup>8</sup> must:<sup>9</sup>

- Maintain a grade point average (GPA) of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester preceding participation or a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for high school graduation.<sup>10</sup>
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student's parents, if the student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required for high school graduation.<sup>11</sup> At a minimum, the contract must require that a student attend summer schools, or its graded equivalent, between grades 9 and 10 or grades 10 and 11 as necessary.
- Earn a cumulative GPA of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required for graduation<sup>12</sup> during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in law. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at the public within the student's attendance zone if the private school

<sup>3</sup> Section 1006.195(2)(a), F.S. The FHSAA retains jurisdiction over recruiting prohibitions and violations, student medical evaluations, investigations, sanctions for coaches, forfeiture of contests, student concussions or head injuries, the sports medical advisory committee, general operational provisions of the FHSAA. *Id.*

<sup>4</sup> Bylaws 2.6 (compliance with rules), 3.3.1 (conditions of membership), and 3.5, (obligations of membership). Florida High School Athletic Association, *2016-2017 FHSAA Bylaws*, available at [https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617\\_handbook\\_bylaws.pdf](https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf).

<sup>5</sup> Bylaw 3.3.1(d). Florida High School Athletic Association, *2016-2017 FHSAA Bylaws*, available at [https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617\\_handbook\\_bylaws.pdf](https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf).

<sup>6</sup> *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

<sup>7</sup> *Sult*, 148 Fla. at 35; bylaw 2.6, Florida High School Athletic Association, *2016-2017 FHSAA Bylaws*, available at [https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617\\_handbook\\_bylaws.pdf](https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf).

<sup>8</sup> For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

<sup>9</sup> Section 1006.15(3)(a), F.S.

<sup>10</sup> Sections 1002.3105(5) and 1003.4282, F.S.

<sup>11</sup> *Id.*

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

where the student is enrolled is not a member of the FHSAA and has an enrollment of less than 125 students (non-FHSAA member private school).<sup>13</sup> The FHSAA and district school board must adopt guidelines that establish:<sup>14</sup>

- A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.
- Requirements for a private school student to participate, including, but not limited to, meeting the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to other students participating in interscholastic or intrascholastic sports at a public school or FHSAA member private school.

### **Controlled Open Enrollment**

Beginning with the 2017-2018 school year, a parent whose child is not subject to a current expulsion or suspension order may seek enrollment in and transport his or her child to any public school in the state, including a charter school, which has not reached capacity, as determined by the school district or charter school. The school district or charter school shall accept and report the student for purposes of funding through the Florida Education Finance Program (FEFP). The school district or charter school may provide student transportation at their discretion.<sup>15</sup>

Each school must provide preferential treatment in its controlled open enrollment process to:

- Dependent children of active duty military personnel who moved as a result of military orders
- Children relocated due to foster care placement in a different school zone
- Children relocated due to a court ordered change in custody as a result of separation or divorce, or the serious illness or death of a parent
- Students residing in the school district.<sup>16</sup>

Each charter school may provide preferential treatment in the controlled open enrollment process to the enrollment limitations consistent with law<sup>17</sup> and its charter contract. The charter school must post the application process required to participate in controlled open enrollment on its website.

A student residing in the school district may not be displaced by a student from another district. A student who transfers may remain at the school until the student completes the highest grade level offered.<sup>18</sup>

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<sup>13</sup> Section 1006.15(8), F.S. A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA; *see also s.* 1006.15(3)(c), (d), and (e), F.S.; bylaw 9.2.2.4, Florida High School Athletic Association, *2016-2017 FHSAA Bylaws*, available at [https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617\\_handbook\\_bylaws.pdf](https://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1617_handbook_bylaws.pdf).

<sup>14</sup> Section 1006.15(8), F.S.

<sup>15</sup> Section 1002.31(2), F.S.

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

<sup>17</sup> *See* Section 1002.33(10), F.S.

<sup>18</sup> Section 1002.31(2), F.S.

Each district school board must post on its website the application process required to participate in controlled open enrollment. The process must:

- Adhere to federal desegregation requirements.
- Allow parents to declare school preferences, including placement of siblings within the same school.
- Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.
- Afford parents of students in multiple session schools preferred access to controlled open enrollment.
- Maintain socioeconomic, demographic, and racial balance.
- Address the availability of transportation.
- Maintain existing academic eligibility criteria for public school choice programs.
- Identify schools that have not reached capacity, as determined by the school district.
- Ensure that each district school board adopts a policy to provide preferential treatment.<sup>19</sup>

A school may not delay eligibility or prevent a student participating in controlled open enrollment from being immediately eligible to participate in extracurricular activities. A student may not participate in a sport if the student participated in the same sport in another school during the school year unless the student:

- Is a dependent of active duty military personnel whose move resulted from military orders;
- Relocated due to a foster care placement in a different school zone;
- Relocated due to a court-ordered change in custody; or
- Is authorized for good cause in district or charter school policy.<sup>20</sup>

### **III. Effect of Proposed Changes:**

The bill revises student eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports. Specifically, the bill requires the Florida High School Athletic Association (FHSAA), in cooperation with each district school board, to allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic or intrascholastic sports at a public school that a student could choose to attend pursuant to controlled open enrollment. Accordingly, private school students are provided greater choice for participating in interscholastic or intrascholastic activities.

The bill takes effect July 1, 2017.

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

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>19</sup> Section 1002.31(3), F.S.

<sup>20</sup> Section 1002.31(6), F.S.

**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:**

The bill does not impact state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1006.15 of the Florida Statutes.

**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.